



Home Office

DATED

(1) The Secretary of State for the Home Department

and

(2) Eamus Cork Solutions Sarl

AGREEMENT

relating to

**Authorised Freight Searching, Searching of Persons, Escorting and
Detention Services in Northern France**

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THIS CONTRACT IS DATED

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR THE HOME DEPARTMENT** acting through Border Force of 2 Marsham Street, London, SW1P 4DF (the “**Authority**”);

AND

- (2) **EAMUS CORK SOLUTIONS SARL** of Port 4112, Contour du Loopersfort, 59279 Craywick (registered in France under number 488 153 768 00020) whose registered office is Terminal Transmanche Local 61A, 62100 Calais (the “**Contractor**”),

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

BACKGROUND:

- (A) The Authority is responsible for the implementation of the UK Immigration Acts. The Sangatte Protocol and the Treaty of Le Touquet enable the Authority to exercise its immigration powers within defined UK Control Zones in France, otherwise known as the Juxtaposed Controls. The Authority wishes to appoint a Contractor to provide security services to support its operational activities in Northern France by examining vehicles for the purpose of identifying and denying admission to people entering or attempting to enter in breach of the Immigration Act.
- (B) On 14 July 2016 the Authority advertised in the Official Journal of the European Union (reference 2016/S 134-24169), inviting prospective Contractors to submit proposals for the provision of Freight Searching, Searching of Persons, Escorting and Detention Services in Northern France.
- (C) The Contractor is a leading provider of security services and has experience in the provision of freight searching, searching of persons, escorting and detention services in France.
- (D) On the basis of the Contractor’s response to the advertisement and a subsequent tender process, the Authority selected the Contractor as its preferred Contractor.
- (E) The Parties have agreed to contract with each other in accordance with the terms and conditions set out below.

IT IS AGREED AS FOLLOWS:

A GENERAL PROVISIONS

A1 Definitions and Interpretation

- A1.1 In this Contract, unless the context otherwise requires:

“**Affected Party**” means the Party seeking to claim relief in respect of a Force Majeure Event.

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly Controls is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

"Approval" and **"Approved"** means the prior written consent of the Authority.

"Authorised Representative" means the Authority representative named in the CCN as authorised to approve agreed Variations.

"Authorised Search Officer" or "ASO" means a member of Contractor's Staff which has passed the relevant mandatory training and received official authorisation from the Secretary of State for the Home Department to perform the Services in accordance with the Immigration Acts.

"Authority 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 are: (i) supplied to the Contractor by or on behalf of the Authority; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or
- (b) any Personal Data for which the Authority is the Data Controller.

"Authority Premises" means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Contractor or its Sub-Contractors for provision of the Services.

"Authority Software" means software which is owned by or licensed to the Authority (other than under or pursuant to this Contract) and which is or will be used by the Contractor for the purposes of providing the Services.

"BPSS" means the HMG Baseline Personnel Security Standard for Government employees.

"CCN" means a change control notice in the form set out in Schedule 3.

"Commencement Date" means 1st April 2017.

"Commercially Sensitive Information" means the information listed in Schedule 4:

- (a) which is provided by the Contractor to the Authority in confidence for the period set out in Schedule 4; and/or
- (b) that constitutes a trade secret.

"Confidential Information" means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services and which is set out in Schedule 6.

“Control” means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly.

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and **“Crown Body”** is an emanation of the foregoing.

“Default” means any breach of the obligations of the relevant Party (including abandonment of this Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of this Contract and in respect of which such Party is liable to the other.

“Dependent Child/Children” means a person who is not a Detainee but who is (or who the Authority believes to be) under 18 years of age and cared for and controlled by a Responsible Adult.

“Detainee” means a person detained under the Immigration Acts.

“Detainee Custody Officer” or “DCO” means a member of the Contractor’s Staff who has received the appropriate training and authorisation to undertake custodial duties in accordance with the Immigration Acts on behalf of the Authority.

“DOTAS” means 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 and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

“DPA” means the Data Protection Act 1998 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.

“Duty Manager” means the Border Force Higher Officer who has the authority to make management decisions on immigration matters arising from the provision of the Services and who will make decisions regarding the deployment of the Contractors Staff.

“EIR” means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

“Equipment” means the Contractor’s equipment, consumables, plant, materials and such other items supplied and used by the Contractor in the delivery of the Services.

“Excused Performance” means the situation where there is a Service Failure but the Contractor demonstrates that such failure was directly attributable to Paragraph 10 of Schedule 5 (Service Credit Regime).

“Extension” means a period of 12 months from the expiry of the Initial Term.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor’s supply chain.

“Freight Searching Liaison Officer” or “FSLO” means the designated Border Force Officer or Assistant Officer responsible for the liaison, co-ordination and direction of the Contract Services on each Border Force shift.

“Further Extension Period” means a further 12 month period from the expiry of the Extension.

“General Anti-Abuse Rule” means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law and 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 in a similar type of undertaking under the same or similar circumstances.

“Goods” means any goods supplied by the Contractor (or by a Sub-Contractor) under this Contract as described in Schedule 1 including any modified or alternative goods.

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others.

“Holding Room” is a facility used for the detention of a Detainee at Dunkerque Port pending handover to Police aux Frontière (PAF).

“HMRC” means HM Revenue & Customs.

“ICT Environment” means the Authority System and the Contractor System.

“Immigration Acts” means the meaning given to it in Section 61 of the UK Border Act 2007.

“Information” has the meaning given under section 84 of the FOIA.

“Initial Term” means the period of three (3) years from and including the Commencement Date.

“Intellectual Property Rights” means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, 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.

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003.

“Key Performance Indicators” means those aspects of the Services identified in the Key Performance Indicator Schedule in respect of which the Contractor’s performance of the Service will be formally assessed.

“Key Performance Period” means a calendar month starting on the first day of the month.

“Key Performance Standards” means the standards which apply in respect of the Key Performance Indicator Schedule in respect of which the Contractors performance of the Services will be formally assessed.

“Key Personnel” mean those persons named in the Specification as key personnel.

“Know-How” means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

“Law” means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice,

judgment of a relevant court of law, or directives or requirements of any Regulatory Body with which the Contractor is bound to comply.

“Malicious Software” means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

“Management Information” means the information specified in Schedule 3 (Management and Monitoring Information).

“Material Breach” means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of this Contract; or
- (b) any of the obligations set out in clauses A6, D1, E1, E2, E3, E4, E7, E8 or E10.

“Month” means calendar month.

“NICs” means National Insurance Contributions.

“Occasion of Tax Non-Compliance” means:

- (a) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

“Optional Services” means the Services described in Schedule 1 (Specification) which are to be provided by the Contractor if required by the Authority in accordance with Clause B4.

“Port” means the port where the Services are to be supplied.

“Port Authority” or “Port Operator” means the organisation responsible for managing/controlling the business activities at a Port; for Calais, that is the Chambre de

Commerce et d'Industrie Cote D'Opale; for Dunkerque, that is the Grand Port Maritime de Dunkerque; and for Coquelles, that is Eurotunnel Group Sarl.

"Premises" means the location where the Services are to be performed as set out in the Schedule 1 (Specification).

"Price" means the price (excluding any applicable VAT) payable to the Contractor by the Authority under this Contract, as set out in Schedule 2 for the full and proper performance by the Contractor of its obligations under this Contract.

"Prohibited Act" means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
- (c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

"Property" means the property, other than real property, issued or made available to the Contractor by the Authority in connection with this Contract.

"Purchase Order" means the document in which the Authority specifies the Services which are to be supplied by the Contractor under this Contract.

"Quality Standards" means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 1.

"Receipt" means the physical or electronic arrival of the invoice at the address specified in clause A4.4 or at any other address given by the Authority to the Contractor for the submission of invoices from time to time.

"Regulations" means the Public Contract Regulations 2015 (SI 2015/102).

"Regulatory Body" means a government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority.

"Relevant Conviction" means a conviction that is relevant to the nature of the Services or as listed by the Authority and/or relevant to the work of the Authority.

"Relevant Requirements" means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

"Relevant Tax Authority" means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

"Replacement Contractor" means any third party Contractor appointed by the Authority to supply any goods and/or services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of this Contract.

"Request for Information" means a request for information under the FOIA or the EIR.

"Responsible Adult" means in relation to any particular Dependent Child, a Detainee aged 18 years or over who cares for and controls that Dependent Child;

"Returning Employees" means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of this Contract Period.

"Security Policy Framework" means the HMG Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) as updated from time to time.

"Services" means the operational requirements as described in Schedule 1 including any modified or alternative services and includes any Optional Services where required by the Authority'.

"Service Credits" means the sum payable in respect of the failure by the Contractor to meet the Key Performance Standards.

"Service Failure" means a failure by the Contractor to deliver any part of the Services in accordance with the Key Performance Standards.

"Specification" means the description of the Services to be supplied under this Contract as set out in Schedule 1 including, where appropriate, the Key Personnel, the Premises and the Quality Standards.

"SSCBA" means the Social Security Contributions and Benefits Act 1992.

“Staff” means all persons employed by the Contractor to perform its obligations under this Contract together with the Contractor’s servants, agents, Contractors and Sub-Contractors used in the performance of its obligations under this Contract.

“Staff Vetting Procedures” means the Authority’s internal procedures for the vetting of Contractor Personnel as set out in the Schedule 1 (Specification) and otherwise as advised to the Contractor by the Authority.

“Standards” means the Authority’s professional standards referred to in Schedule 10 (Professional Standards), together with the Quality Standards and any other specified policies or procedures identified in the Standards Schedule.

“Sub-Contractor” means a third party directly or indirectly contracted to the Contractor (irrespective of whether such person is an agent or company within the same group of companies as the Contractor) whose services and/or goods are used by the Contractor (either directly or indirectly) in connection with the provision of the Services, and **“Sub-Contract”** shall be construed accordingly.

“Tender” means the documents submitted by the Contractor to the Authority as set out in Schedule 11 (Contractors Tender) in response to the Authority’s invitation to Contractors for formal offers to supply the Services.

“Term” means the period of:

- (a) the Initial Term; or
- (b) following an Extension, the end date of the Extension
- (c) following a Further Extension, the end date of the Further Extension

or such earlier date of termination or partial termination of this Contract in accordance with the Law or this Contract.

“TFEU” means the Treaty on the Functioning of the European Union.

“Third Party IP Claim” has the meaning given to it in clause E8.7 (Intellectual Property Rights).

“Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in Schedule 6.

“Treaties” means the TFEU and the Treaty on European Union.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“TUPE Information” means the information set out in clause B17.1.

“Unaccompanied Minor” means person(s) under the age of 18 detained under the Immigration Act and who is not accompanied by a Detainee above the age of 18 years.

“Valid Invoice” means an invoice containing the information set out in clause C2.5.

“Variation” means a variation in the Specification, the Price or any of the terms or conditions of this Contract.

“VAT” means value added tax charged or regulated in accordance with the provisions of the Value Added Tax Act 1994.

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

A1.2 In this Contract, unless the context implies otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” 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”;
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of this Contract;
- (g) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (h) references to this Contract are references to this Contract as amended from time to time.

A2 The Authority’s Obligations

A2.1 Save as otherwise expressly provided, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Contract shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, and the exercise by the Authority of its duties and powers in any other capacity shall not lead to any liability (howsoever arising) on the part of the Authority to the Contractor.

A3 Contractor’s Status

A3.1 The Contractor shall be an independent contractor and nothing in this 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 this Contract.

- A3.2 The Contractor shall not (and shall ensure that any other person engaged in relation to this Contract shall not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent or employee of the Authority.

A4 Notices and Communications

- A4.1 Subject to clause A4.3, where this Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email.

- A4.2 If it is not returned as undelivered a notice served:

- (a) in a letter is deemed to have been received 2 Working Days after the day it was sent; and
- (b) in an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

- A4.3 Notices pursuant to clauses G3 (Force Majeure), I2 (Dispute Resolution) or to terminate this Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.

- A4.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Contract:

- (a) For the Authority:

Contact Name: Amanda Hallinan, Home Office Commercial Directorate

Address: Martello House, Shearway Business Park, Shearway Road, Folkestone, Kent CT19 4RH

Email: amanda.hallinan@homeoffice.gsi.gov.uk

- (b) For the Contractor:

Contact Name: Patrick Guerbette, Eamus Cork Solutions Sarl

Address: Port 4112, Contour du Loopersfort, 59279 Craywick; and

Email: patrick.guerbette@eamuscork.com

A5 Mistakes in Information

- A5.1 The Contractor is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the Goods or Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

A6 Conflicts of Interest

- A6.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The Contractor will notify the Authority without delay giving full particulars of any such conflict of interest which may arise.
- A6.2 The Authority may terminate this Contract immediately by notice and/or take or require the Contractor to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this clause A6 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

B. THE SERVICES

B1 Consideration

- B1.1 In consideration of the Contractor supplying the Services the Contractor shall be paid the Price.

B2 Not Used

B3 Delivery

- B3.1 The Contractor shall supply the Services during the Contract Term in accordance with Schedule 1 (Specifications) and Schedule 11 (Tender). In the event of any conflict or inconsistency between the Schedules, the requirements of Schedule 1 shall prevail over Schedule 11.
- B3.2 In addition to the Services, the Contractor shall, at no additional cost to the Authority, provide any incidental services and assume any incidental responsibilities which are not specifically set out in Schedule 1 (Specification) provided that they are services which are inherent to the proper performance and the delivery of the Services and consistent with the overall allocation of responsibilities to the Contractor
- B3.3 The Authority may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice. The Contractor shall provide free of charge all such facilities as the Authority may reasonably require for such inspection and examination. In this clause B3, Services include planning or preliminary work in connection with the supply of the Services.
- B3.4 If reasonably requested to do so by the Authority, the Contractor shall co-ordinate its activities in supplying the Services with those of the Authority and other contractors engaged by the Authority.

B3.5 Timely supply of the Services is of the essence of this Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Contractor fails to deliver the Services within the time promised or specified in the Specification, the Authority is released from any obligation to accept and pay for the Services, as applicable, and may terminate this Contract, in either case without prejudice to any other rights and remedies of the Authority.

B4 Optional Services

B4.1 The Authority may require the Contractor to provide any or all of the Optional Services at any time by giving the relevant notice to the Contractor in writing as specified in Paragraph 10.2 of Schedule 1 (Specifications). The Contractor acknowledges that the Authority is not obliged to take any Optional Services from the Contractor and that nothing shall prevent the Authority from receiving services that are the same as or similar to the Optional Services from any third party.

B4.2 Following receipt of the Authority's notice pursuant to Clause B4.1:

- (a) the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with Clause F6, modified to reflect the fact that the terms and conditions on which the Contractor shall provide the relevant Optional Services have already been agreed;
- (b) any additional charges for the Optional Services shall be incorporated in the Price as specified in Clause C5 (Price for Optional Services); and
- (c) the Supplier shall, from the date agreed with the Authority, provide the relevant Optional Services to meet the applicable Key Performance Level in respect of Schedule 4 (Key Performance Indicators).

B5 Not Used

B6 Not Used

B7 Not Used

B8 Provision and Removal of Equipment

B8.1 The Contractor shall provide all the Equipment and resource necessary for the supply of the Services.

B8.2 The Contractor shall not deliver any Equipment to or begin any work on the Premises without obtaining Approval.

B8.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Authority's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost.

B8.4 Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.

- B8.5 If the cost of any Equipment is reimbursed to the Contractor such Equipment shall be the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Contractor will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Authority on request and on completion of the Services.
- B8.6 The Contractor shall maintain all Equipment in a safe, serviceable and clean condition.
- B8.7 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove immediately from the Premises Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with this Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B8.8 Within 20 Working Days of the end of the Term, the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor shall make good any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Contractor or Staff.
- B9 Not Used**
- B10 Service Delivery**
- B10.1 The Contractor shall at all times comply with the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of the Service has not been specified in this Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under this Contract in accordance with the Law and Good Industry Practice.
- B10.2 The Contractor shall ensure that all Staff supplying the Services 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. The Contractor shall ensure that those Staff act in accordance with Schedule 10 (Professional Standards) and are properly managed and supervised.
- B11 Key Personnel**
- B11.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services.
- B11.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Authority, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar extenuating circumstances.

- B11.3 Any replacements to the Key Personnel shall be subject to Approval. Such replacements shall be of at least equal status, experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B11.4 The Authority shall not unreasonably withhold its agreement under clauses B11.2 or B11.3. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.
- B11.5 The Authority may, by notice to the Contractor, ask it to remove any Staff whose presence is, in the Authority's reasonable opinion, undesirable. The Contractor shall comply with any such request immediately.

B12 Contractor's Staff

- B12.1 The Authority may, by notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:
- (a) any member of the Staff; or
 - (b) any person employed or engaged by any member of the Staff,
- whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable.
- B12.2 At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in to the Authority's Premises, specifying the capacities in which they are concerned with this Contract and giving such other particulars as the Authority may reasonably request.
- B12.3 The decision of the Authority as to whether any person is to be refused access to the Authority's Premises and as to whether the Contractor has failed to comply with clause B12.2 shall be final.
- B12.4 The Contractor shall ensure that all Staff who have access to the Authority's Premises or the Authority Data have been cleared in accordance with the BPSS.

B13 Inspection of Premises

- B13.1 Save as the Authority may otherwise direct, the Contractor is deemed to have inspected the Premises before submitting its Tender and to have completed due diligence in relation to all matters connected with the performance of its obligations under this Contract.

B14 Licence to Occupy Premises

- B14.1 Any land or Premises made available from time to time to the Contractor by the Authority in connection with this Contract shall be on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under this Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on termination of this Contract.
- B14.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary for it to perform its obligations under this Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Authority may reasonably request.
- B14.3 Should the Contractor require modifications to the Authority's Premises, such modifications shall be subject to Approval and shall be carried out by the Authority at the Contractor's expense. The Authority shall undertake approved modification work without undue delay.
- B14.4 The Contractor shall (and shall ensure that any Staff on the Authority's Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Authority's Premises as determined by the Authority.
- B14.5 The Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, the Authority retains the right at any time to use the Premises owned or occupied by it in any manner it sees fit.

B15 Property

- B15.1 All Property is and shall remain the property of the Authority and the Contractor irrevocably licenses the Authority and its agents to enter any Premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- B15.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within 5 Working Days of receipt.
- B15.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with this Contract and for no other purpose without Approval.
- B15.4 The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time.

B15.5 The Contractor shall be liable for all loss of or damage to the Property, unless such loss or damage was caused by the Authority's negligence. The Contractor shall inform the Authority immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B16 Offers of Employment

B16.1 Except in respect of any transfer of Staff under TUPE, for the Term and for 12 Months thereafter the Contractor shall not employ or offer employment to any of the Authority's staff who have been associated with the Services and/or this Contract without Approval.

B17 Employment Provisions

B17.1 Not later than 12 Months prior to the end of the Term, the Contractor shall fully and accurately disclose to the Authority all information that the Authority may reasonably request in relation to the Staff including the following:

- (a) the total number of Staff whose employment/engagement shall terminate at the end of the Term, save for any operation of Law;
- (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B17.1 (a);
- (c) the terms and conditions of employment/engagement of the Staff referred to in clause B17.1 (a), their job titles and qualifications;
- (d) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
- (e) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

B17.2 At intervals determined by the Authority (which shall not be more frequent than once every 30 days) the Contractor shall give the Authority updated TUPE Information.

B17.3 Each time the Contractor supplies TUPE Information to the Authority it shall warrant its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Contractor.

B17.4 The Authority may use TUPE Information it receives from the Contractor for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Term. The Contractor shall provide the Replacement Contractor with such assistance as it shall reasonably request.

B17.5 If TUPE applies to the transfer of the Services on termination of this Contract, the Contractor shall indemnify and keep indemnified the Authority and the Crown (both for themselves and any Replacement Contractor) against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Contractor may suffer or incur as a result of or in connection with:

- (a) the provision of TUPE Information;
- (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;
- (c) any failure by the Contractor or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;
- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
- (e) any claim by any person who is transferred by the Contractor to the Authority and/or a Replacement Contractor whose name is not included in the list of Returning Employees.

B17.6 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date TUPE Information.

B17.7 This clause B17 applies during the Term and indefinitely thereafter.

B17.8 The Contractor undertakes to the Authority that, during the 12 Months prior to the end of the Term the Contractor shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Contractor and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

C PAYMENT

C1 Price

- C1.1 In consideration of the Contractor's performance of its obligations under this Contract, the Authority shall pay the Price in accordance with clause C2.

C2 Payment and VAT

- C2.1 The Contractor shall submit invoices to the Authority on the dates set out in Schedule 2.
- C2.2 The Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with this Contract.
- C2.3 The Contractor shall add VAT to the Price at the prevailing rate as applicable and shall show the amount of VAT payable separately on all invoices as an extra charge. If the Contractor fails to show VAT on an invoice, the Authority will not, at any later date, be liable to pay the Contractor any additional VAT.
- C2.4 All Contractor invoices shall be expressed in sterling or Euro or such other currency as shall be permitted by the Authority in writing.
- C2.5 Valid Invoices shall include:
- (a) the Contractor's full name, address and title of this Contract;
 - (b) a description of the Services delivered; and
 - (c) the Purchase Order number
- C2.6 Not used.
- C2.7 Not used.
- C2.8 Not used.
- C2.9 Not used.
- C2.10 The Authority shall not pay the Contractor's overhead costs unless specifically agreed in writing by the Authority and overhead costs shall include, without limitation; facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.
- C2.11 Not used.
- C2.12 The Authority shall pay only for the time spent by Staff working on the Premises.
- C2.13 Not used.
- C2.14 Not used.

- C2.15 Not used.
- C2.16 Not used.
- C2.17 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Contractor. All payments made by the Authority to the Contractor shall be on an interim basis pending final resolution of an account with the Contractor in accordance with the terms of this clause C2.
- C2.18 The Authority shall pay all sums due to the Contractor within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:
- Home Office Shared Services Centre
HO Box 5015
Newport
NP20 9BB
- C2.19 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank plc.
- C2.20 If the Contractor enters into a Sub-Contract with a Contractor for the purpose of performing its obligations under this Contract, it shall ensure that a provision is included in the Sub-Contract which requires payment to be made of all sums due from it to the Sub-Contractor within 30 days from the receipt of a valid invoice.
- C2.21 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under this Contract. Any amounts due under this clause C2.21 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C2.22 The Contractor shall not suspend the Services unless the Contractor is entitled to terminate this Contract under clause H2.3 for failure to pay undisputed sums of money.
- C2.23 The Authority shall not pay an invoice which is not Valid Invoice.

C3 Recovery of Sums Due

- C3.1 If under this Contract any sum of money is recoverable from or payable by the Contractor to the Authority (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of this Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor from the Authority under this Contract or under any other agreement with the Authority or the Crown.
- C3.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

- C3.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in this Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- C4 Price During Extension**
- C4.1 Subject to Schedule 2 and clause F6 (Variation), the Price shall apply for the Initial Term and until the end date of any Extension or Further Extension or such earlier date of termination or partial termination of this Contract in accordance with the Law or this Contract.
- C5 Price for Optional Services**
- C5.1 If the Authority gives notice pursuant to Clause B4 (Optional Services) that it requires the Contractor to provide any or all of the Optional Services, the Price for the relevant Optional Services shall be calculated by reference to the Price Schedule for those Optional Services set out in Tables 11-19 of Schedule 2 (Price Schedules).

D. STATUTORY OBLIGATIONS

D1 Prevention of Fraud and Bribery

- D1.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- D1.2 The Contractor shall not during the Term:
- (a) commit a Prohibited Act; and/or
 - (b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- D1.3 The Contractor shall, during the Term:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
- (b) keep appropriate records of its compliance with its obligations under clause D1.3(a) and make such records available to the Authority on request.

D1.4 The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of clauses D1.1 and/or D1.2, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

D1.5 If the Contractor notifies the Authority pursuant to clause D1.4, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.

D1.6 If the Contractor is in Default under clauses D1.1 and/or D1.2, the Authority may by notice:

- (a) require the Contractor to remove from performance of this Contract any Staff whose acts or omissions have caused the Default; or
- (b) immediately terminate this Contract.

D1.7 Any notice served by the Authority under clause D1.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which this Contract shall terminate).

D2 Discrimination

D2.1 The Contractor shall:

- (a) perform its obligations under this Contract in accordance with:
 - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);

- ii) the Authority's equality and diversity policy as given to the Contractor from time to time;
 - iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

D3 Rights of Third Parties

- D3.1 Other than each Contracting Authority, a person who is not a Party to this Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from this Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D4 Health and Safety

- D4.1 The Contractor shall perform its obligations under this Contract in accordance with:
- (a) all applicable Law regarding health and safety; and
 - (b) the Authority's health and safety policy while at the Authority's Premises.
- D4.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of this Contract. The Contractor shall instruct Staff to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

E PROTECTION OF INFORMATION

E1 Authority Data

- E1.1 For the purposes of clauses E1 and 2, the terms "**Data Controller**", "**Data Processor**", "**Data Subject**", "**Personal Data**", "**Process**" and "**Processing**" shall have the meanings prescribed in the DPA.
- E1.2 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- E1.3 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

- E1.4 To the extent that Authority Data is held and/or Processed by the Contractor, the Contractor shall supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification.
- E1.5 The Contractor shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data.
- E1.6 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored securely off-site. The Contractor shall ensure that such back-ups are made available to the Authority immediately upon request.
- E1.7 The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework.
- E1.8 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
- (a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of Authority Data and the Contractor shall do so promptly; and/or
 - (b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- E1.9 If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

E2 Data Protection Act

- E2.1 The Contractor shall (and shall ensure that all its 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 this Contract.
- E2.2 Notwithstanding the general obligation in clause E2.1, if the Contractor is Processing Personal Data as a Data Processor for the Authority the Contractor shall:
- (a) Process the Personal Data only in accordance with instructions from the Authority (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by the Authority;
 - (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 and maintain appropriate technical and organisational 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 its Staff who may have access to the Personal Data;
- (f) not transfer the Personal Data to any Sub-Contractor and/or Affiliates for the provision of the Services without Approval;
- (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without Approval;
- (h) ensure that all Staff 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 E2;
- (i) ensure that none of the Staff publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Authority;
- (j) not disclose Personal Data to any third parties in any circumstances other than with Approval or in compliance with a legal obligation imposed upon the Authority;
- (k) notify the Authority (within 5 Working Days) if it receives:
 - i) a request from a Data Subject to have access to that person's Personal Data; or
 - (ii) a complaint or request relating to the Authority's obligations under the DPA;
- (l) provide the Authority with full cooperation and assistance in relation to any complaint or request made, including by:
 - i) providing the Authority with full details of the complaint or request;
 - ii) complying with a data access request within the relevant timescales set out in the DPA and in accordance with the Authority's instructions;
 - iii) providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and
 - iv) providing the Authority with any information requested by the Authority;
- (m) permit the Authority (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause E9 (Audit), the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-Contractors) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract;

- (n) provide a written description of the technical and organisational methods employed by the Contractor for Processing Personal Data (within the timescales required by the Authority); and
- (o) not Process Personal Data outside the European Economic Area without Approval and, if the Authority consents to a transfer, to comply with:
 - i) the obligations of a Data Controller under the Eighth Data Protection Principle set out in schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and
 - ii) any reasonable instructions notified to it by the Authority.

E2.3 The Contractor shall comply at all times with the DPA and shall not perform its obligations under this Contract in such a way as to cause the Authority to breach any of its applicable obligations under the DPA.

E2.4 The provision of this clause E2 shall apply during the Term and indefinitely after its expiry.

E3 Official Secrets Acts and Finance Act

E3.1 The Contractor shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

E4 Confidential Information

E4.1 Except to the extent set out in this clause E4 or if disclosure or publication is expressly permitted elsewhere in this Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under this Contract.

E4.2 The Contractor hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to this Contract, to the general public.

E4.3 If required by the Authority, the Contractor shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with this Contract. The Contractor shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.

E4.4 If requested by the Authority, the Contractor shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Contractor shall ensure that its Staff, professional advisors and consultants are aware of the Contractor's confidentiality obligations under this Contract.

- E4.5 The Contractor may only disclose the Authority's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E4.6 The Contractor shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.
- E4.7 Clause E4.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
 - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - (c) such information was obtained from a third party without obligation of confidentiality;
 - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
 - (e) it is independently developed without access to the other Party's Confidential Information.
- E4.8 Nothing in clause E4.1 shall prevent the Authority disclosing any Confidential Information obtained from the Contractor:
- (a) for the purpose of the examination and certification of the Authority's accounts;
 - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (c) to any Crown Body or any Contracting Authority and the Contractor hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments 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 government department or any Contracting Authority;
 - (d) to any consultant, contractor or other person engaged by the Authority
- provided that in disclosing information under clauses E4.8 (c) and (d) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- E4.9 Nothing in clauses E4.1 to E4.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under this Contract in the course

of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

- E4.10 The Authority 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 E4.6 is made aware of the Authority's obligations of confidentiality.
- E4.11 If the Contractor does not comply with clauses E4.1 to E4.6 the Authority may terminate this Contract immediately on notice to the Contractor.
- E4.12 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Contractor shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- E4.13 The Contractor will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data.
- E4.14 The Contractor shall, at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Contractor has failed to comply with clause E4.12.

E5 Freedom of Information

- E5.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- E5.2 The Contractor shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt:
 - (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
 - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR;
 - (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- E5.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

E6 Publicity, Media and Official Enquiries

E6.1 Without prejudice to the Authority's obligations under the FOIA, the EIR or any obligations under the Regulations or any policy requirements as to transparency, neither Party shall make any press announcement or publicise this Contract or any part thereof in any way, except with the written consent of the other Party.

E6.2 The Contractor shall use its reasonable endeavours to ensure that its Staff, professional advisors and consultants comply with clause E6.1.

E7 Security

E7.1 The Authority shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority and the Port Authority while on the Premises, and shall ensure that all Staff comply with such requirements.

E7.2 Not used.

E7.3 The Contractor shall, as an enduring obligation during the Term, 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.

E7.4 Notwithstanding clause E7.3, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Authority Data, assist each other to mitigate any losses and to restore the provision of Services to their desired operating efficiency.

E7.5 Any cost arising out of the actions of the Parties taken in compliance with clause E7.4 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 Authority if the Malicious Software originates from the Authority Software or Authority Data (whilst the Authority Data was under the control of the Authority).

E8 Intellectual Property Rights

E8.1 All Intellectual Property Rights in any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- (a) furnished to or made available to the Contractor by or on behalf of the Authority;
- (b) prepared by or for the Contractor for use in relation to the performance of its obligations under this Contract; or
- (c) the result of any work done by the Contractor, the Staff or any Sub-Contractor in relation to the provision of the Services (together with clauses E8.1 (a) and (b) the "**IP Materials**")

shall vest in the Authority and the Contractor shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Contractor of its obligations under this Contract.

- E8.2 The Contractor hereby assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause E8.1(b) and (c). This assignment shall take effect on the date of this Contract or (in the case of rights arising after the date of this Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor shall execute all documentation and do all acts as are necessary to execute this assignment.
- E8.3 The Contractor shall waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of this Contract or the performance of its obligations under this Contract.
- E8.4 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying goods and/or services to the Authority.
- E8.5 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 Term, indemnify and keep indemnified the Authority and the Crown from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this clause E8.5, except to the extent that any such claim results directly from:
- (a) items or materials based upon designs supplied by the Authority; or
 - (b) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of this Contract.
- E8.6 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor to the Authority.
- E8.7 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority or the Contractor) arising from the performance of the Contractor's obligations under this Contract ("**Third Party IP Claim**"), provided that the Contractor shall at all times:
- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;

- (b) take due and proper account of the interests of the Authority; and
- (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).

E8.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not be required to indemnify the Authority under this clause E8.8 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.5(a) or (b).

E8.9 The Authority shall not, without the Contractor's consent, make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.

E8.10 If any Third Party IP Claim is made or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E8.4 and G2.1(g)) use its best endeavours to:

- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Contractor is unable to comply with clauses E8.10(a) or (b) within 20 Working Days of receipt by the Authority of the Contractor's notification the Authority may terminate this Contract immediately by notice to the Contractor.

E8.11 The Contractor grants to the Authority a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to exercise its rights under, and receive the benefit of, this Contract (including, without limitation, the Services).

E9 Audit

E9.1 The Contractor shall keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of this Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with this Contract.

E9.2 The Contractor agrees to make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.

- E9.3 The Contractor shall permit duly authorised representatives of the Authority and/or the National Audit Office to examine the Contractor's records and documents relating to this Contract and to provide such copies and oral or written explanations as may reasonably be required.
- E9.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

E10 Tax Compliance

- E10.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
 - (b) promptly give the Authority:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- E10.2 If the Contractor or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under this Contract, the Contractor shall:
- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
 - (b) indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Contractor or any Staff.

F. CONTROL OF THE CONTRACT

F1 Failure to meet Requirements

- F1.1 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of this Contract or differs in any way from those requirements, and this is not as a result of a default by the Authority, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of this Contract within such reasonable time as may be specified by the Authority.

F2 Monitoring of Contract Performance

- F2.1 The Contractor shall comply with the monitoring arrangements set out in Schedule 3 (Monitoring and Management Information), Schedule 4 (Key Performance Indicators) and Schedule 5 (Service Credit Regime).
- F2.2 The Contractor shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F2.2 At or around every 3 Months from the Commencement Date (each being a "**Review Date**"), the Authority shall carry out a review of the performance of the Contractor ("**Checkpoint Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to): the Contractor's delivery of the Services; the Contractor's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services; a review of future requirements in relation to the Services and progress against Schedule 4 Key Performance Indicators.
- F2.3 The Contractor shall provide at its own cost any assistance reasonably required by the Authority to perform such Checkpoint Review including the provision of data and information.
- F2.4 The Authority may produce a report (a "**Checkpoint Review Report**") of the results of each Checkpoint Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Contractor's obligations under this Contract.
- F2.5 The Authority shall give the Contractor a copy of the Checkpoint Review Report (if applicable). The Authority shall consider any Contractor comments and may produce a revised Checkpoint Review Report.
- F2.6 The Contractor shall, within 10 Working Days of receipt of the Checkpoint Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Checkpoint Review Report.
- F2.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Contractor's failure to meet its obligations under this Contract identified by the Checkpoint Review Report, or those which result from the Contractor's failure to meet the Authority's expectations notified to the Contractor or of which the Contractor ought reasonably to have been aware) shall be implemented at no extra charge to the Authority.

F3 Remedies for inadequate performance

- F3.1 If the Authority reasonably believes the Contractor has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:
- (a) without terminating this Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor has demonstrated to the Authority's

reasonable satisfaction that the Contractor will be able to supply the Services in accordance with the Specification;

- (b) without terminating the whole of this Contract, terminate this Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
- (a) withhold or reduce payments to the Contractor in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (a) terminate this Contract in accordance with clause H2.

F3.2 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services.

F3.3 If the Authority reasonably believes the Contractor has failed to supply all or any part of the Services in accordance with this Contract, professional or industry practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Contractor notice specifying the way in which its performance falls short of the requirements of this Contract or is otherwise unsatisfactory.

F3.4 If the Contractor has been notified of a failure in accordance with clause F3.3 the Authority may:

- (a) direct the Contractor to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
- (b) withhold or reduce payments to the Contractor in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

F3.5 If the Contractor has been notified of a failure in accordance with clause F3.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F3.5 and the progress of those measures until resolved to the satisfaction of the Authority.

F3.6 If, having been notified of any failure, the Contractor fails to remedy it in accordance with clause F3.5 within the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate this Contract immediately on notice to the Contractor.

F4 Transfer and Sub-Contracting

- F4.1 Except where clauses F4.5 and F4.6 both apply, the Contractor shall not transfer, charge, assign, sub-contract or in any other way dispose of this Contract or any part of it without Approval. All such documents shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of this Contract shall not relieve the Contractor of any of its obligations or duties under this Contract.
- F4.2 The Contractor shall be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Contractor shall provide each Sub-Contractor with a copy of this Contract and obtain written confirmation from them that they will provide the Services fully in accordance with this Contract.
- F4.3 The Contractor shall ensure that its Sub-Contractors and Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with the provisions of clause E9 (Audit). If any Sub-Contractor or Contractor does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Contractor on the basis of such documents or work carried out by the Sub-Contractor or Contractor.
- F4.4 If the Authority has consented to the placing of Sub-Contracts, copies of each Sub-Contract shall, at the request of the Authority, be sent by the Contractor to the Authority immediately.
- F4.5 Notwithstanding clause F4.1, the Contractor may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Contractor (including any interest which the Authority incurs under clause C2 (Payment and VAT)). Any assignment under this clause F4.5 shall be subject to:
- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);
 - (b) all related rights of the Authority under this Contract in relation to the recovery of sums due but unpaid; and
 - (c) the Authority receiving notification under both clauses F4.6 and F4.7.
- F4.6 If the Contractor assigns the right to receive the Price under clause F4.5, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- F4.7 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee’s contact information and bank account details to which the Authority shall make payment.
- F4.8 The provisions of clause C2 shall continue to apply in all other respects after the assignment and shall not be amended without Approval.
- F4.9 Subject to clause F4.10, the Authority may assign, novate or otherwise dispose of its rights and obligations under this Contract or any part thereof to:
- (a) any Contracting Authority;

- (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under this Contract.

F4.10 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F4.11, affect the validity of this Contract and this Contract shall bind and inure to the benefit of any successor body to the Authority.

F4.11 If the rights and obligations under this Contract are assigned, novated or otherwise disposed of pursuant to clause F4.9 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the **"Transferee"**):

- (a) the rights of termination of the Authority in clauses H1 and H2 shall be available to the Contractor in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under this Contract or any part thereof with the prior consent in writing of the Contractor.

F4.12 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under this Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under this Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F4.13 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of this Contract.

F5 Waiver

F5.1 The failure of either Party to insist upon strict performance of any provision of this Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Contract.

F5.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A4 (Notices and Communications).

F5.3 A waiver of any right or remedy arising from a breach of this Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Contract.

F6 Variation

- F6.1 If, after the Commencement Date, the Authority's requirements change, the Authority may request a Variation subject to the terms of this clause 6.
- F6.2 The Authority may request a Variation by notifying the Contractor in writing of the Variation and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement the Variation within a reasonable time limit specified by the Authority. If the Contractor accepts the Variation it shall confirm it in writing.
- F6.3 If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Contractor to fulfil its obligations under this Contract without the Variation to the Specification; or
 - (b) terminate this Contract immediately except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- F6.4 No Variation will take effect unless and until it is recorded in a validly executed CCN. Execution of a CNN shall be made via electronic signature as described in clause 1.2 of Section 1 of this Contract.
- F6.5 A CCN takes effect on the date on which both Parties communicate acceptance of the CCN, on the date it communicates its acceptance of the CCN in this way, the Contractor shall be deemed to warrant and represent that the CNN has been executed by a duly authorised representative of the Contractor in addition to the warranties and representations set out in clause G2.
- F6.6 The provisions of clauses F6.4 and F6.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Variation in order to address the emergency. In an emergency, Variations may be approved by a different representative of the Authority. However, the Authorised Representative shall have the right to review such a Variation and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Variation.

F7 Severability

- F7.1 If any provision of this Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Contract shall continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F8 Remedies Cumulative

- F8.1 Except as expressly provided in this Contract all remedies available to either Party for breach of this Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F9 Entire Agreement

- F9.1 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 fraudulent misrepresentation.

F10 Counterparts

- F10.1 The Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

G LIABILITIES

G1 Liability, Indemnity and Insurance

- G1.1 Neither Party limits its liability for:
- (a) death or personal injury caused by its negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) 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;
 - (d) any breach of clause D1; or
 - (e) any liability to the extent it cannot be limited or excluded by Law.
- G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under this 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 property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.
- G1.3 Subject to clause G1.1 the Contractor's aggregate liability in respect of this Contract shall not exceed ten million pounds (£10,000,000).

- G1.4 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under this Contract.
- G1.5 The Authority may recover from the Contractor the following losses incurred by the Authority to the extent they arise as a result of a Default by the Contractor:
- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
 - (b) any wasted expenditure or charges;
 - (c) the additional costs of procuring a Replacement Contractor for the remainder of the Term and or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under this Contract;
 - (d) any compensation or interest paid to a third party by the Authority; and
 - (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.
- G1.6 Subject to clauses G1.1 and G1.5, neither Party shall be liable to the other for any:
- (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
 - (b) indirect, special or consequential loss.
- G1.7 Unless otherwise specified by the Authority, the Contractor shall, with effect from the Commencement Date for such period as necessary to enable the Contractor to comply with its obligations herein, take out 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 this Contract, including 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. Such insurance shall be maintained for the duration of the Term and for a minimum of 6 years following the end of this Contract.
- G1.8 The Contractor shall hold employer's liability insurance in respect of Staff and such insurance shall be in accordance with any legal requirement from time to time in force.
- G1.9 The Contractor shall give the Authority, 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.
- G1.10 If the Contractor does not give effect to and maintain the insurances required by the provisions of this Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract.
- G1.12 The Contractor shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Contractor, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Contractor is an insured, a co-insured or additional insured person.

G2 Warranties and Representations

- G2.1 The Contractor warrants and represents on the Commencement Date and for the Term that:
- (a) it has full capacity and authority and all necessary consents to enter into and perform this Contract and that this Contract is executed by a duly authorised representative of the Contractor;
 - (b) in entering this Contract it has not committed any fraud;
 - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Contractor to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of this Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
 - (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under this Contract;
 - (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;
 - (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
 - (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under this Contract;
 - (h) any person engaged by the Contractor shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
 - (i) in the 3 years (or period of existence where the Contractor has not been in existence for 3 years) prior to the date of this Contract:
 - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

- ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
- iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under this Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G3 Force Majeure

- G3.1 Subject to the remaining provisions of this clause G3, a Party may claim relief under this clause G3 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-Contractor or Contractor shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or Contractor is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.
- G3.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- G3.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this clause G3 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Contractor has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract.
- G3.4 Subject to clause G3.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- G3.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

G3.6 If, as a result of a Force Majeure Event:

- (a) an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:
 - i) the other Party shall not be entitled to exercise its rights to terminate this Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
 - ii) neither Party shall be liable for any Default arising as a result of such failure;
- (b) the Contractor fails to perform its obligations in accordance with this Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of this Contract during the occurrence of the Force Majeure Event.

G3.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.

G3.8 Relief from liability for the Affected Party under this clause G3 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under clause G3.7.

H DEFAULT, DISRUPTION AND TERMINATION

H1 Termination on Insolvency and Change of Control

H1.1 The Authority may terminate this Contract with immediate effect by notice and without compensation to the Contractor 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;
- (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);
- (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;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (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;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

- (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 H1.1(a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate this Contract with immediate effect by notice and without compensation to the Contractor 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;
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor’s bankruptcy;
- (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;
- (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;
- (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;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses H1.2(a) to (g) occurs under the law of any other jurisdiction.

H1.3 The Contractor shall notify the Authority immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including where the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 (“**Change of Control**”). The Authority may terminate this Contract with immediate effect by notice and without compensation to the Contractor within 6 Months of:

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

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

H1.4 The Authority may terminate this Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) it is for any reason dissolved; or
- (c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (d) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (e) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (f) any of the following occurs in relation to any of its partners:
 - (i) 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, his creditors;
 - (ii) a petition is presented for his bankruptcy; or
 - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;
- (g) any event similar to those listed in clauses H1.4(a) to (f) occurs under the law of any other jurisdiction .

H1.5 The Authority may terminate this Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) it is for any reason dissolved;
- (c) an application 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 within Part II of the Insolvency Act 1986;
- (d) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;

- (e) 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 within Part IV of the Insolvency Act 1986;
- (f) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (h) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (i) any event similar to those listed in clauses H1.5 (a) to (h) occurs under the law of any other jurisdiction.

H1.6 References to the Insolvency Act 1986 in clause H1.5(a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

H2 Termination on Default

H2.1 The Authority may terminate this Contract with immediate effect by notice if the Contractor commits a Default and:

- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 25 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a Material Breach.

H2.2 If, through any Default of the Contractor, data transmitted or processed in connection with this 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 Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

H2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Contractor may terminate this Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C3.1 (Recovery of Sums Due) or to a Force Majeure Event.

H3 Termination on Notice

H3.1 The Authority may terminate this Contract at any time by giving 90 days' notice to the Contractor.

H4 Termination under the Regulations

H4.1 The Authority may terminate this Contract on written notice to the Contractor if:

- (a) this Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- (b) the Contractor was, at the time this Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of this Contract; or
- (c) this Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

H5 Consequences of Expiry or Termination

- H5.1 If the Authority terminates this Contract under clause H2 and makes other arrangements for the supply of the Services the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.
- H5.2 If Contract is terminated under clause H2 the Authority shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with this Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause.
- H5.3 If the Authority terminates this Contract under clauses H3 or H4, the Authority shall make no further payments to the Contractor except for Services supplied by the Contractor prior to termination and in accordance with this Contract but where the payment has yet to be made by the Authority. The Contractor shall submit a fully itemised and costed list of unavoidable direct loss which it would seek to recover from the Authority, with supporting evidence, of losses reasonably and properly incurred by the Contractor as a result of a termination under Clause H3 or H4. The Authority may reasonably request such a list at any time during this Contract Term and without having exercised its rights under Clause H3 or H4 prior to the request.
- H5.4 The Authority shall not be liable under Clause H5.3 to pay any sum which:
 - (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
 - (b) when added to any sums paid or due to the Contractor under this Contract, exceeds the total sum that would have been payable to the Contractor if this Contract had not been terminated prior to the expiry of the Contract Term; or
 - (c) is a claim by the Contractor for loss of profit, business, revenue, goodwill or other indirect loss, due to early termination of this Contract.
- H5.5 The Contractor shall ensure that it has included terms in all Sub-contracts in substantially the same form as Clause H3 or H4 allowing it to terminate the relevant Sub-contract by giving three (3) months' notice in writing without incurring any financial penalty beyond payment of the Sub-contractor's reasonable and properly incurred costs and expenses incurred up to the date of termination, and provided that the Contractor takes reasonable steps, consistent with

the obligation to provide the Services during the period of notice to mitigate its losses including:

- (a) terminating all Sub-contracts with Sub-Contractors on the best available terms;
- (b) cancelling all capital and recurring cost commitments; and
- (c) reducing equipment and labour costs.

H5.6 Save as otherwise expressly provided in this Contract:

- (a) termination or expiry of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination or expiration and nothing in this Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of this Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Data Protection Act Compliance), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), F9 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

H6 Disruption

- H6.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H6.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under this Contract.
- H6.3 If there is industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under this Contract.
- H6.4 If the Contractor's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, then this Contract may be terminated with immediate effect by the Authority by notice.

H7 Recovery upon Termination

- H7.1 On termination of this Contract for any reason, the Contractor shall at its cost:
 - (a) immediately return to the Authority all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted

Contractors or Sub-Contractors, which was obtained or produced in the course of providing the Goods and Services;

- (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor in good working order;
- (c) immediately vacate any Premises occupied by the Contractor;
- (d) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress; and
- (e) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or the Replacement Contractor to conduct due diligence.

H7.2 If the Contractor does not comply with clauses H7.1(a) and (b), the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted Contractors or Sub-Contractors where any such items may be held.

H8 Retendering and Handover

H8.1 Within 21 days of being requested by the Authority, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.

H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.

H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.

H8.4 The Contractor indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Contractor is required to provide under clause H8.1.

H8.5 The Contractor shall allow access to the Premises in the presence of the Authorised Representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.

H8.6 If access is required to the Contractor's Premises for the purposes of clause H8.5, the Authority shall give the Contractor 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to

compliance with the Contractor's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

H8.7 The Contractor shall co-operate fully with the Authority during any handover at the end of this Contract. This co-operation shall include allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

H8.8 Within 10 Working Days of being requested by the Authority, the Contractor shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

H9 Exit Management

H9.1 Upon termination the Contractor shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Contractor in accordance with the procedure set out in clause H10.

H10 Exit Procedures

H10.1 Where the Authority requires a continuation of all or any of the Services on expiry or termination of this Contract, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.

H10.2 The following commercial approach shall apply to the transfer of the Services if the Contractor:

- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
- (b) reasonably incurs additional costs, the Parties shall agree a Variation to the Price based on the Contractor's rates either set out in Schedule 2 or forming the basis for the Price.

H10.3 When requested to do so by the Authority, the Contractor shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.

H10.4 Within one Month of receiving the software licence information described above, the Authority shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the Authority a plan for licence transfer.

H11 Knowledge Retention

H11.1 The Contractor shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority on the completion or earlier termination of this Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports,

summaries and any other information requested by the Authority. The Contractor shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

- I1.1 Subject to the provisions of clause I2 this Contract, including any matters arising out of or in connection with it, shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

I2 Dispute Resolution

- I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this 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 of the Contractor and the commercial director of the Authority.
- I2.2 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.
- I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause I2.5 unless: (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.
- I2.4 The obligations of the Parties under this Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of this Contract at all times.
- I2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
 - (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;

- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Contract without the prior written consent of both Parties; and
- (f) if the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 12.6.

12.6 Subject to clause 12.2, the Parties shall not institute court proceedings until the procedures set out in clauses 12.1 and 12.3 have been completed save that:

- (a) The Authority may at any time before court proceedings are commenced, serve a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7;
- (b) if the Contractor intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7; and
- (c) the Contractor may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 12.7, to which the Authority may consent as it sees fit.

12.7 If any arbitration proceedings are commenced pursuant to clause 12.6:

- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Contractor (the “**Arbitration Notice**”) stating:
 - (i) that the dispute is referred to arbitration; and
 - (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with 12.7(b) shall be applied and are deemed to be incorporated by reference to this Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause 12.7(a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

THIS CONTRACT has been signed by the Parties and shall take effect on the date of this Contract.

THE AUTHORITY

SIGNED for and on behalf of **The Secretary of State for the Home Department**

Signature.....

Name

Authorised signatory

THE CONTRACTOR

SIGNED for and on behalf of **Eamus Cork Solutions Sarl**
acting by:

Signature.....

Name

Designation.....

SCHEDULE 1 - SPECIFICATIONS

Please refer to the following Specifications;

Specification No.1: Operational Requirement - Calais Port

Specification No.2: Operational Requirement – Dunkerque Port Part 1

Specification No.3: Operational Requirement – Dunkerque Port Part 2

Specification No.4: Operational Requirement – Eurotunnel Terminal Coquelles

Specification No.1: Operational Requirement - Calais Port

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1. PURPOSE

1.1 The Authority is responsible for the implementation of the UK Immigration Acts. The Sangatte Protocol and the Treaty of Le Touquet enable the Authority to exercise its immigration powers within defined UK Control Zones in France, otherwise known as the Juxtaposed Controls. Arrangements made under clauses 40 and 41 of the UK Immigration Asylum and Nationality Act 2006 also allow for the examination of freight and tourist vehicles by a person authorised by the Crown for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine.

1.2 Border Force is a law-enforcement command of the Authority. Officers of Border Force ("Border Force Officers") are designated immigration officers for the purpose of the UK Immigration Acts and this Operational Requirement

1.3 The Authority has a requirement for a Contractor to provide security services to support its operational activities in the Port of Calais (62) in Northern France by examining vehicles for the purpose of identifying and denying admission to people entering or attempting to enter in breach of the Immigration Act.

1.4 The Services include vehicle searching (freight and tourist vehicles) which is achieved by using detection technology and effective deployment of freight searching teams working collaboratively with another Contractor contracted to provide detection dog teams; and escorting functions which may require the detention of an individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of a Border Force Officer or other authority to whom the individual is to be delivered.

2. AUTHORISATION AND SECURITY CLEARANCE

2.1 Authorisation from the Secretary of State for the Home Department is mandatory ("Authorisation"); the Contractor must only allow those who have received the appropriate Authorisation to undertake work in connection with this Contract. This Authorisation process may take up to 12 weeks and once concluded satisfactorily the Contractors Staff shall be referred to as Authorised Search Officers or "ASO's".

2.2 All Contractor Staff may be subject to checks against criminal records for the purposes of security clearance.

2.2 An Independent Monitor will be appointed by the Secretary of State for the Home Department whose job it will be to undertake regular inspections of the application of the powers of search and detention employed by the Authorised Search Officers. The Independent Monitor may also investigate complaints or failings that come to his/her notice and will report directly to the Secretary of State. The Independent Monitor will require access to the Contractors documents and reports including Staff information. The Independent Monitor will therefore require the full co-operation of the Contractor in the performance of its duties.

2.3 A Staff member's Authorisation may be suspended and revoked at the request of the Authority or the Independent Monitor. Should this arise the individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Authorised Search Officer immediately to ensure that the agreed Staffing levels are maintained.

2.4 In addition to the Authority's security clearance procedures, the Port of Calais Authorities may wish to conduct additional checks prior to the Contractor's Staff being permitted access to the port.

2.5 All Contractors' Staff which have been trained and authorised by the Secretary of State of the Home Department shall be designated Key Personnel for the purpose of Clause B.11 of the Contract.

3. LOCATION

3.1 The Services set out in this specification are principally required at Calais port.

4. FREIGHT SEARCHING

4.1 The Contractor will provide the requisite number of Staff for each shift (refer to Section 10) who have been trained and authorised by the Secretary of State for the Home Department and who will be designated Authorised Search Officers (ASO) to undertake freight searching operations.

4.2 The nature of the work is outside, working in the allocation lanes, and/or designated search sheds, and/or at the tourist controls searching vehicles for illegal entrants before they board the ferry destined for the U.K. The Contractor may also be directed anywhere within the UK control zone in order to search vehicles in Calais when necessary. The ASOs will not operate elsewhere without the agreement of the Authority

4.3 The ASO teams will work in compliance with the Safe Systems of Work (SSOW) which are written by the Contractor in consultation with the Authority.

4.4 The ASO's must report to the Authority's Duty Manager ("Duty Manager") at the start of each shift. Due to the high incidence of illegal entrants encountered on and around HGVs at Calais berths, the Authority has engaged the services of a Contractor to provide Body Detection Dog (BDD) services. The Duty Manager will assign the ASOs, in teams of three, to support a BDD dog handler or they will be assigned, in teams of three, to operate with detection technology e.g. CO2 probes or Heartbeat detection technology. It is essential that the Contractors Staff are comfortable working in close proximity to dogs.

4.5 The ASOs will search vehicles using the appropriate detection technology provided by the Authority e.g. CO2 probes or Heartbeat Detectors or in conjunction with/support of specialist dog teams or Border Force officers. The Contractor will visually examine the exterior of the vehicle including axles, panniers, wind breaks or storage areas. When appropriate, the interior of the trailer and drivers cab will be searched either visually and/or assisted by detection technology to ensure the vehicle is not concealing illegal entrants

4.6 Company seals on vehicles may be broken to gain access to a vehicle interior. The ASO will, after the vehicle has been declared clear, fit a seal provided by the Authority. The ASO will provide the driver of the vehicle with a written document (as supplied by the Authority) which confirms the original seal has been broken and replaced with an Authority seal. Customs seals must not be breached except by the Authority or Douanes (French Customs) Officer. The ASO must not cause any unnecessary damage to a vehicle or to its load and the Contractor must accept total responsibility for any liability arising in this respect.

4.7 The Contractor will be responsible for the secure storage of all forms, seals and any detection equipment provided by the Authority. They will also be responsible for the

replacement costs of any forms, seals and detection equipment lost or damaged through misuse. All losses or damage must be reported at the earliest opportunity to the Duty Manager. The Contractor shall ensure storage facilities are made available for inspection by the Authority.

4.8 In the event of a find of illegal entrant(s) the case is to be referred to the Duty Manager immediately upon detection; the Duty Manager will contact the Police aux Frontieres (PAF) and request their attendance to collect the illegal entrants.

4.9 When an illegal entrant is encountered the Contractor must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to Duty Manager. All of this information must be discussed with the Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

4.10 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

4.11 The Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

4.12 Using appropriate transport the illegal entrant(s) must be escorted to the holding facility or as otherwise directed by the Duty Manager. Escort instructions are contained in Sections 6 & 7 of this Specification.

4.13 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

5. TOURIST VEHICLE SEARCHES AND MARSHALLING

5.1 In addition in the above, ASOs will be required to undertake searches on tourist vehicles including but not limited to coaches, cars, vans, motor homes, caravans, towed trailers etc which travel through the tourist control and they will be searched in areas agreed by the Authority.

5.2 The ASO teams will work in compliance with the Safe Systems of Work (SSOW) which are written by the Contractor in consultation with the Authority.

5.3 The ASO's must report to the Duty Manager at the start of each shift. The team will be allocated the tasks of controlling coach traffic arriving at the UK Border Force control; presenting the identity document of the driver(s) to a Border Force Officer; marshalling the coaches and passengers to and from the coach hall; searching coaches and other tourist vehicles.

5.4 Searches of tourist vehicles and coaches consist of a visual examination. If new detection technology is used to undertake this task, full training will be provided by the authority.

5.5 In the event of a find of illegal entrant(s) the case is to be referred to the Duty Manager immediately.

5.6 When an illegal entrant is encountered the Contractor must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to the Duty Manager. All of this information must be discussed with the Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

5.7 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

5.8 The Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

5.9 The illegal entrant(s) must be escorted to the holding facility or as otherwise directed by the Duty Manager. Escort instructions are contained in Sections 6 & 7 of this Specification.

5.10 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

6. ESCORTING & SEARCHING OF PERSONS

6.1 The Contractor will only provide Staff who have been authorised by the Secretary of State for the Home Department. The UK Immigration, Asylum and Nationality Act (2006) states that Authorised Search Officers are only permitted to detain persons for up to 3 hours in order to transfer custodians to another authority (Section 40(7)).

6.2 The Contractor must ensure the safe and secure custody at all times of the Detainees within its care, including in a detention vehicle used to transport detainees, as described in Section 11.2.

6.3 The Contractor must take all of the precautions necessary to prevent detainees from escaping whilst in their custody. In particular extra consideration needs to be taken when transferring Detainees into areas where they may be liable to escape.

6.4. If a Detainee attempts to escape or succeeds in escaping; the PAF and the Authority must be advised immediately and a written report on the matter should be submitted within twenty four hours of the Contractor becoming aware of the incident

6.5 The Contractor will be responsible for ensuring that Detainees and Dependent Children in their custody cause no damage to persons, property or themselves. The Contractor must carry out searches of Detainees and Dependent Children, in line with the requirements of current Policy. Any Detainee or Dependent Children may only be searched by a member of Staff of the same gender.

6.6 Female Detainees and Dependent Children must be accompanied by a female operative when being escorted and when searched. As a result a female operative must be on duty at all times. Detailed instructions regarding the search process will be provided during the training. Detainees will be searched only by trained ASO's of the same gender.

6.7 Special care should be taken of all Detainees or Dependent Children who are physically or mentally disabled.

6.8 Minors may only be transported with either their family members or a Responsible Adult if they arrive on their own. One escort officer must be of the same gender as the Detainee.

6.9 Items found during a search must be kept in secure bags noted with the owners' details and passed to the Authority or PAF officer as directed by the Duty Manager.

7. HANDOVER PROCEDURE

7.1 The Contractor must ensure at the time of collection the Detainee is the named person on the official notice.

7.2 The Contractor will be responsible for the Detainees' and Dependent Children's property, for example, money, medication, travel documents, official records and other documentation. The Contractor will account for all items and record on the appropriate paperwork whilst the Detainee is in their custody.

7.3 The Contractor will be responsible for the sealed property bags which must be signed for in the detention centre/PAF records. The Contractor must also ensure that any prescribed medication belonging to a Detainee or Dependent child is collected by the Contractor and held by them until arrival of the Detainee or Dependent child at their destination where it will be handed to the new custodian.

7.4 Where the Detainee has any visible injuries or complains of an injury the Contractor must make a note on the appropriate forms and ensure that the officers responsible for the detention area are aware of the injuries or complaints, and subsequently at the time of handover.

8. OPERATIONAL FLEXIBILITY

8.1 The Contractor will be required to be flexible when the Authority's deployment requirements change due to changes in risk to Border Security.

8.2 The Authority may require the Contractor to redeploy its Staff to other Juxtaposed ports (Calais, Coquelles and Dunkerque). Staff being re-deployed to another Port will be required to do so within one (1) hour, unless otherwise agreed with the Authority.

9. TRAINING

9.1 In order for Contractors Staff to be Authorised by the Secretary of State for the Home Department, they must undertake specific training as described below and receive a "PASS" for that training.

9.2 The Contractor will be required to deliver the elements of the training specified in section 9.5 at its own cost which will include the trainer, venue, travel and accommodation costs and any other associated costs. It is essential that comprehensive training manuals are provided by the Contractor to its Staff.

9.3 The Authority will deliver certain specialised training, in the English language, to the Contractors Staff as specified in section 9.6. The Contractor will be responsible for making the arrangements and paying for the cost of the training venue (Sports hall type facility with padded mats), accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.4 A mentoring period between the Authority and the Contractors' Staff will be mandatory. The duration and timing of the mentoring will be mutually agreed between both parties. During the mentoring period, the Authority will observe the practical application of the skills of the Contractors Staff in the live operational environment.

9.5 Training: Contractor Obligations

9.5.1 The Contractor will be expected to provide and meet the full cost of training for its Staff as specified below. The training course details and content must be reviewed by the Authority prior to commencement of the training and must be reviewed annually, or when circumstances change requiring their update.

9.5.2 The Contractor must ensure that the trainers are suitably skilled to deliver the training specified below.

9.5.3 Staff must be provided with annual refresher courses and a training plan must be maintained for each member of Staff. All training records must be made available to the Authority upon request.

9.5.4 The course should enable effective training in the following mandatory subjects as a minimum requirement;

1. Health and Safety including Safe Systems of Working
2. Security Awareness (International Ship & Port Facility Security (ISPS) or equivalent)
3. First Aid
4. Fire Safety

9.5.5 The Contractor shall permit an Independent Monitor and/or an Authority's official to observe, examine and assess the training provided.

9.6 Training: Authority Obligations

9.6.1 The following training will be provided by the Authority to the Contractors Staff. This training currently takes 7 working days. The Authority will arrange and pay for the provision of the trainer, however, the Contractor will be responsible for making the arrangements and paying for the cost of the training venue, Staff accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.2 The Authority will provide a maximum of 2 courses per year for a total of 40 (20 per course) new Staff recruited for Calais, Coquelles and Dunkerque services provision. Additional courses may be available upon request, however, in the event that more than two courses per year are required due to a high staff turnover, the Contractor will be held responsible for the costs.

9.6.3 The Authority will provide what it deems to be a suitable number of courses for annual refresher training which all Staff must undertake. The Contractor will be responsible for making the arrangements and paying for the cost of the training venue, accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.4 The Authority shall provide training to the Contractors Staff in the following mandatory subjects;

- Use of force, personal management skills, communication skills, searching skills, force reporting and writing, handcuffing skills, unarmed skills, baton skills, incapacitate skills, custody officer skills, vehicle skills.
- Medical implications of personal safety skills.
- The searching of persons and escorting procedures
- Managing the anxieties and stress of detention including children and vulnerable Detainees
- Safe and effective use of the appropriate detection technology
- Guidance on identifying signs of illegal entry in a vehicle.
- Guidance on how to perform the role safely whilst complying with the Authority's professional standards.
- Guidance on Safe Systems of Work (SSOW) for working with body detection dogs
- Legal framework, documentation, report writing and record keeping
- The application of UK Human Rights, children's legislation and cultural diversity and racial awareness

10. STAFF RESOURCES

10.1 The Contractor shall provide Authorised Staff 24 hours per day, 7 days per week and 52 weeks per year (excluding Christmas Day) based on the current operating model as set out in the following table;

Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Team 1: Core Requirement (Total number of ASO present 24/7)	6	6	6*	6	6	6	6
Team 2: Additional number of ASO present 24/7	3	3	3	3	3	3	3
Team 3: Additional number of ASO present 24/7	4	4	4	4	4	4	4
Team 4: Additional number of ASO present 24/7	3	3	3	3	3	3	3
Total number of ASO present 24/7	16	16	16	16	16	16	16

*Plus One (1) Additional ASO 0500 to 1300 hours (Wednesday only)

10.2 The Contractor will be required to provide the total Number of ASO specified in the table above from the Commencement Date of the Contract. However, the Contractor must note that;

10.2.1. pursuant to Clause H3 Termination on Notice and/or Clause F6 Variation, the Authority may request the termination of one or more of the teams set out in the table above at any time during the Contract Term with 3 months written notice;

10.2.2. Pursuant to Clause B4 Optional Services, the Authority may require the provision of additional teams of ASO on a short term (from 1 day up to a maximum of 3 months), medium term (3-12 months) or long term (12 months or longer) basis;

- Short term Optional Services may be requested by the Authority to provide additional teams of ASO in response to critical incidents such as severe weather disruption, industrial action at the ports or a change to security threats or risk levels. The Authority anticipates that the Contractor shall provide Staff for short term Optional Services from its existing pool of ASO on an overtime basis. The Authority shall provide, whenever possible, seven (7) days written notice to the Contractor for short term Optional Services

requests, however, due to the nature of critical incidents, the Contractor may be requested to deploy within 24 hours.

ii) Medium or long term Optional Services may be requested by the Authority to provide additional teams of ASO in response to longer duration issues including increased threat and risk to border security from illegal migrant activity, long term industrial action or other factors leading to increased security risks. The Authority shall provide three (3) months written notice to the Contractor for implementation of medium term or long term Optional Services requests.

iii) The scope of the Optional Services for the Port of Calais is set out in the table below (Table 12 and Table 13 of the Price Schedule refers).

Table 12: Calais Medium Term Optional Services	
Option 1	One Team of Three (3) ASO
Option 2	Two Teams of Three (3) ASO
Option 3	Three Teams of Three (3) ASO
Option 4	Four Teams of Three (3) ASO
Table 13: Calais Long Term Optional Services	
Option 5	One Team of Three (3) ASO
Option 6	Two Teams of Three (3) ASO
Option 7	Three Teams of Three (3) ASO
Option 8	Four Teams of Three (3) ASO

iv) The Authority may require the Contractor to provide one or more of these Options at any time during the Contract Term and the Authority shall not limit the number of times any one of the Options shall be implemented.

v) Where the Authority implements a number of Optional Services over time, increasing the number of teams on an incremental basis, the price paid for the Optional Services shall be the rate for the Option relevant to the total number of additional teams. For example, if Option 1 is implemented, the Authority shall from that time pay the rate for Option 1. If Option 1 is then implemented again, say one month later, it shall pay the rate for both Optional Services at the rate specified in the Contract for Option 2. When the first Option 1 expires, the price paid shall then revert back to the Contract rate for Option 1.

10.3 The Contractor must ensure that it provides the specified number of ASOs on every shift and that any meal breaks taken do not impact on the continuous delivery of the Services. The Contractor must specify shift start and finish times that account for staggered coverage to maintain continuous searching.

10.4 It is essential that at any one time at least one female ASO must be available to undertake the searching and escorting of female persons detained.

10.5 It is highly desirable that the Contractors' Staff have a basic knowledge of spoken and written English and French language because they will be working collaboratively with both English and French authorities, Contractors and the travelling public.

10.6 The Contractor must inform the Authority immediately of Staff that are sick or unable to perform duties; and give assurances that they will be replaced within one hour by another ASO.

In the event that the Contractor is unable to provide such a replacement, then an appropriate Service Credit of the Contract Price must be credited in its monthly invoice.

11. VEHICLES

11.1 The Contractor will be responsible for the provision, support, insurance and maintenance of vehicles to ensure the continued effectiveness of searching and escorting roles.

11.2 The Contractor will be responsible for the provision of vehicles suitable for transporting Detainees within the UK control zone. The detention vehicle must meet the following minimum specification:

Vehicle Specification

- Capacity: Driver + 8 Passengers
- Long wheel base.
- High Roof.
- Should be a van body with windows for the crew area and in the rear doors.
- A nearside opening sliding door.
- Twin crew seat in driver compartment.

Safety Features

- Electronic Stability Control
- Anti-lock Braking System
- Power Assisted Steering
- Driver and passenger airbag.
- First Aid Kit
- Dry powder fire extinguisher
- Life Hammer

Cell Compartment

- Fitted secure cell bulkhead with 4 M1 compliant forward facing seats with seat belts with release mechanism on aisle side..
- Rear Access Step.
- Rear door hinges to open to 180 degrees.

Vehicle Functionality

- Electric Front Windows.
- Remote Central Double Locking.
- Fitted Interior Mats – Driver compartment.
- Easy clean floor surface in crew and cell area for bodily fluid spillages.

11.3 The detention vehicle must be thoroughly inspected and searched for any security hazards before and after each journey.

11.4 In addition, the Contractor must provide vehicles for the transport of its Staff around the port; and to escort detained freight vehicles at the direction of the Authority.

11.5 All vehicles must be fit for the purpose and kept clean and in a roadworthy condition.

11.6 Material of a racially, sexually, or politically offensive nature must not be displayed in or on any part of a vehicle or any vehicle used in support of the contract services

11.7 The Contractor is to ensure that each vehicle must comply with the security requirements set by the Port Authority for service vehicles operating within the port this will include a minimum requirement of suitable markings on the van and orange flashing light(s). The Contractor must seek the prior written approval of the Port Authority for the vehicles it provides and uses in the port environment.

12. MANAGEMENT SUPPORT

12.1 The Contractor will provide management support for the Operational Requirement on a 24 hour basis, seven days a week. The Contractor must have an operations manager available at all times, day and night, to receive instructions from the Authority. The operations manager must be able to converse in English.

12.2 The Contractor's Staff will report to and be directed by the Authority's Duty Manager. The Authority shall also assign a Freight Searching Liaison Officer ("FSLO") to the Contractor. The FSLO will provide the ASO teams with intelligence profiles and operational support when illegal entrants have been detected.

13. HEALTH AND SAFETY COMPLIANCE

13.1 It is essential that the Contractor establishes and complies with all applicable Health and Safety regulations. The Authority reserves the right to see all available documentation relevant to the contract.

13.2 The Contractor must comply with the statutory requirements for having regard to the need to safeguard and promote the welfare of children as specified in Section 55 of the Borders, Citizenship and Immigration Act 2009. The contractor must also ensure the health and safety of Detainees, vulnerable adults, visitors and Staff.

13.3 The Contractor must maintain a Health and Safety (or local equivalent) policy statement which will be reviewed as often as appropriate, but at a minimum annually or when circumstances change requiring their update; and it must include the necessary arrangements for annual safety audits.

13.4 The Contractor will be responsible for producing risk assessments and safe systems of work in consultation with the Authority.

13.5 The Contractor must maintain records assuring that all Staff have read and understood the relevant risk assessments and safe systems of work.

13.6 All accidents, injuries or dangerous occurrences must be recorded in the appropriate manner. All accidents must be investigated and forms submitted to the Authority and, where appropriate, to the Health & Safety Executive or local equivalent.

13.7 The Contractor shall ensure that suitable provision is made to satisfy first aid requirements.

13.8 If an incident occurs they should report the incident to the Authority as soon as possible and, if required, contact the Police aux Frontières (“PAF”). A written report of the incident should be supplied to the Authority within 24 hours.

13.9 In the event of an emergency contact the relevant emergency service immediately e.g. Pompier. Notify the Authority as soon as practicable.

14. EQUIPMENT & UNIFORM

14.1 The Contractor will be responsible for provision and maintenance of Equipment. The Contractor will supply each team of 3 ASO with a ladder, torches, tools for removing company seals (bolt cutters) and a working camera with compatible SD card. The Equipment noted above must be maintained in safe working order.

14.2 The Contractor will supply each team of 3 ASO with a kit bag which will be carried at all times when searching vehicles. The kit bag must contain the Equipment specified above together with , official seals, and any forms required to be completed by the Authority. The ladder should be readily accessible within the team’s vehicle.

14.3 The Authority will provide ASOs with radio communications equipment (hereinafter referred to as Property”). The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any malfunction of the Property to the Authority immediately.

14.4 The Authority will provide ASOs with fully functioning and serviced CO₂ probes or Heartbeat detection technology (“Property”) for the detection of illegal entrants concealed within vehicles. The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any malfunction of the Property to the Authority immediately.

14.5 In accordance with Clause B.15.5 of the Contract, the Contractor shall reimburse the Authority for all loss or damage to the Property.

14.6 In the event that clandestine detection technologies change, the Authority will deliver suitable training in the operation of the new equipment which the Contractors Staff will be required to operate. The new technologies would be considered “Property” for the purposes of the contract.

14.7 The Contractor must ensure that its Staff are equipped with the necessary and mandatory clothing to perform the task, including high visibility clothing. Consideration to inclement weather conditions should be a priority.

14.8 The Contractor must provide Staff with a uniform which has been approved by the Authority and ensures that individuals are readily identifiable; i.e. a name or number corresponding to that individual can be seen on the uniform. Their ASO status should also be visible. The Contractor must ensure that upon leaving its service that any member of Staff returns all items of uniform including identity badges and/or identity passes.

15. COMPLAINTS

15.1 The Contractor must implement procedures to investigate and respond to complaints made by the public about the Services delivery and professional conduct of Contractors Staff or

allegations of theft, assault and any other allegations made by Detainees and Dependent Children. The Contractor must offer the complainant the opportunity to have the Police Aux Frontiere called and the Contractor may do so even in cases where the complainant does not wish that course of action to be taken.

15.12 The Contractor will be liable for any costs or compensation involved in the investigation of a complaint and its outcome.

15.2 Complaints are categorised as follows;

15.2.1 Minor misconduct is usually to do with isolated instances of rudeness and unprofessional conduct which are not serious enough to warrant a formal investigation and if substantiated they would not normally lead to discipline (misconduct) proceedings. Misconduct complaints are those which allege that the behaviour of any member of staff or contractor has failed to meet the Standards, for example;

- Incivility;
- Brusqueness;
- Isolated instances of bad language;
 - An officer's refusal to identify themselves when asked;
 - Poor attitude, e.g. being unhelpful, inattentive or obstructive

15.2.2 Serious misconduct is any unprofessional behaviour which, if substantiated, should lead to misconduct proceedings. These are categorised as follows;

- Criminal Assault
- Criminal Sexual Assault
- Criminal Theft
- Criminal Fraud or Corruption
- Racism or other discrimination
- Unfair treatment (e.g. harassment)
- Other unprofessional conduct including any behaviour likely to bring the Home Office into disrepute; or which casts doubt on a person's honesty, integrity or suitability to work for the Home Office.

15.2.3 Gross misconduct is Serious Misconduct which, if substantiated on investigation or admitted, could lead to suspension or revocation of Contractors Staff Authorisation.

15.3 The Contractor must ensure that the Authority is notified of all complaints within 24 hours of its receipt.

Minor Misconduct Complaints

15.4 The Contractor shall be required to investigate and respond to Minor Misconduct complaints. If the Contractor cannot resolve a complaint about Minor Misconduct within two working days it should send an acknowledgement to the complainant within two working days and reply substantively within 15 working days of the date the complaint was received.

15.5 The Contractor will nominate a single point of contact (SPOC) who has responsibility for ensuring its compliance with the complaints procedure.

15.6 The Contractor must ensure that there is in place an auditable mechanism for receiving and recording complaints and ensure that these records are available for inspection by the Authority's Representative upon request.

15.7 The Contractor must maintain full and accurate records of any such allegations and the investigated outcomes which must be submitted at the earliest opportunity to the nominated officer for the Authority.

Serious Misconduct Complaints

15.8 The Authority shall be required to investigate all Serious Misconduct complaints; the Staff member's Authorisation may be suspended for the duration of the investigation. The Independent Monitor will be notified by the Authority of all Serious Misconduct complaints and the Independent Monitor may be appointed to investigate and report to the Secretary of State about any allegation made against an Authorised person in relation to their specified duties. The Contractor is required to co-operate fully with any complaint investigation by the Authority or the Independent Monitor ensuring that all records are made available for inspection and Staff are made available for interview when requested.

15.9 In the event the Gross/Serious Misconduct complaint is proven, the Staff member's Authorisation may be suspended and revoked at the instruction of the Authority or the Independent Monitor. That individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Authorised Search Officer immediately to ensure that the agreed Staffing levels are maintained.

15.10 The Contractor will have to consider and respond to any recommendations stemming from 'Lessons Learned' process following a complaint. Implementation of agreed recommendations would be undertaken in line with the contract variation procedures.

15.11 Where the Contractor is found to have provided a sub standard service by not following the Authority's procedure or an investigation indicates failure to meet the required service or behaviour standard then the provisions of Clause H.2 Termination on Default of the Contract will apply.

15.12 The Authority will ensure that complaints are forwarded to the Independent Monitor as appropriate.

Staff Complaints

15.14 The Contractor shall provide a confidential complaints process for Staff to enable them to report any concerns in confidence that they may have regarding actions by other Staff or third parties.

15.15 Staff must report an act or omission by a third party which could constitute an illegal act or result in reputational damage to the Authority as soon as practical and no later than 12 hours after the event.

16. RECORDS AND REPORTING

16.1 The Contractor shall produce and maintain clear, auditable records of the following:

- (a) Number of vehicles searched records – to be submitted at the end of each shift – to the Duty Manager
- (b) Missed or part sailings report – to be submitted at the end of each shift - to the Duty Manager
- (c) Clandestine detection proformas – to be submitted after each detection – to the Duty Manager
- (d) Shift reports – to be submitted at the end of each shift - to the Duty Manager
- (e) Weekly statistics – To be submitted at the end of each working week (for Sunday to Saturday_ - to the Authority Contract Monitor
- (f) Performance of the Services (To be submitted at the end of each working week (for Sunday to Saturday) to the Authority Contract Monitor
- (g) Records of persons detained and all persons searched including details of items found and subsequent actions taken – to be submitted at the end of each shift to the Duty Manager
- (h) Key Performance Indicators (Schedule 4 of the Contract refers) – to be submitted to the Authority at the end of each month.

16.2 Copies of these records must be provided to the Authority at the Contractors expense. The Contractor's records must be maintained and readily available for examination by the Authority at any time during and after the contract in accordance with Clause E9 Audit of the Contract. The Authority will provide sample forms to the Contractor.

16.3 The Authority will require the Contractor to provide relevant records within 6 hours should there be a find of illegal entrants in the UK.

16.4 The Authority will provide the Contractor with specific forms used within the operation; ASO 100 – Notice to detainee

16.5 The Contractor must ensure that the records it holds are kept in accordance with Section E, Protection of Information of the Contract.

17. PREMISES

17.1 The Contractor must make its own arrangements, at it's own cost, for the provision of office or rest accommodation at the Port with the appropriate Port Authority.

18. CONTINGENCY PLANNING

18.1 Contingency plans shall be prepared by the Contractor and approved by the Authority prior to the commencement of the Services and two copies of these plans will be held by the Authority. The contingency plans shall be reviewed and updated at least once a year or when circumstances or operational requirements change.

The contingency plans shall address the following potential incidents as a minimum:-

- Death of a Detainee, Dependent Child or any other person
- Acute illness of a Detainee, Dependent Child or any other person
- Suicide and/or attempted suicide
- Accidents, assaults, injuries or fights
- Demonstrations
- Detainees with mental/ physical health issues
- Detainees who escapes or attempt to escape
- Concerted indiscipline, barricading or hostage taking

- Key/lock compromise
- Fire, bomb, threat or other act causing disruption to the search of vehicles, search of persons or escort activity
- Industrial action by Contractor's Staff
- Adverse bad weather conditions
- Significant events disrupting travel patterns (e.g. Volcanic Ash Cloud)

Specification No.2: Operational Requirement - Dunkerque Port

Part 1: Freight Searching, Searching of Persons and Escorting Services

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1. PURPOSE

1.1 The Authority is responsible for the implementation of the UK Immigration Acts. The Sangatte Protocol and the Treaty of Le Touquet enable the Authority to exercise its immigration powers within defined UK Control Zones in France, otherwise known as the Juxtaposed Controls. Arrangements made under clauses 40 and 41 of the UK Immigration Asylum and Nationality Act 2006 also allow for the examination of freight and tourist vehicles by a person authorised by the Crown for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine.

1.2 Border Force is a law-enforcement command of the Authority. Officers of Border Force ("Border Force Officers") are designated immigration officers for the purpose of the UK Immigration Acts and this Operational Requirement

1.3 The Authority has a requirement for a Contractor to provide security services to support its operational activities in the Port of Dunkerque (59) in Northern France by examining vehicles for the purpose of identifying and denying admission to people entering or attempting to enter in breach of the Immigration Act.

1.4 The Services include vehicle searching (freight and tourist vehicles) which is achieved by using detection technology and effective deployment of freight searching teams working collaboratively with another Contractor contracted to provide detection dog teams; and escorting functions which require the Contractor to deliver any individuals detained to the Holding Facility at the port.

1.5 In addition, the Authority requires Detainee Custody Officer (DCO) services at the Authority's Holding Room at Dunkerque Port. The operational requirement for these services is detailed separately in the Specification for Dunkerque, Part 2: Detention Services, however, all Staff designated to perform DCO functions must primarily be trained and authorised in accordance with this Specification for Dunkerque, Part 1.

2. AUTHORISATION AND SECURITY CLEARANCE

2.1 Authorisation from the Secretary of State for the Home Department is mandatory ("Authorisation"); the Contractor must only allow those who have received the appropriate authorisation to undertake work in connection with this contract. This authorisation process may take up to 12 weeks and once concluded satisfactorily, the Contractors staff shall be referred to as Authorised Search Officers (ASO). ASOs must be clearly identifiable to the Authority, as referenced in Section 14.

2.2 All Contractor Staff may be subject to checks against criminal records for the purposes of security clearance.

2.3 An Independent Monitor will be appointed by the Secretary of State for the Home Department whose job it will be to undertake regular inspections of the application of the powers of search and detention employed by the Authorised Search Officers. The Independent Monitor may also investigate complaints or failings that come to his/her notice and will report directly to the Secretary of State. The Independent Monitor will require access to the Contractors documents and reports including staff information. The Independent Monitor will therefore require the full co-operation of the Contractor in the performance of its duties.

2.4 A Staff member's Authorisation may be suspended and revoked at the request of the Authority or the Independent Monitor. Should this arise the individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement ASO immediately to ensure that the agreed Staffing levels are maintained.

2.6 In addition to the Authority security clearance procedures, The Port of Dunkerque Authorities may also wish to conduct additional checks prior to the Contractor's Staff being permitted to access the port.

2.7 All Contractor's Staff which have been trained and Authorised by the Secretary of State for the Home Department shall be designated Key Personnel for the purposes of Clause B.11 of the Contract.

3. LOCATION

3.1 The Services set out in this specification are principally required at Dunkerque port.

4. FREIGHT SEARCHING

4.1 The Contractor will provide the required number of Staff for each shift (refer to Section 10) who have been trained and authorised by the Secretary of State for the Home Department and who will be designated Authorised Search Officers (ASO) to undertake freight searching operations.

4.2 The nature of the work is outside, working in the allocation lanes, and/or designated search sheds, and/or at the tourist controls searching vehicles for illegal entrants before they board the ferry destined for the U.K. The Contractor may also be directed anywhere within the UK control zone in order to search vehicles in Dunkerque when necessary. The ASOs will not operate elsewhere without the agreement of the Authority

4.2 The ASO teams will work in compliance with the Safe Systems of Work.

4.4 The ASO's must report to the Authority's Duty Manager ("Duty Manager") at the start of each shift. Due to the high incidence of illegal entrants encountered on and around HGVs at Dunkerque berths, the Authority has engaged the services of a Contractor to provide Body Detection Dog (BDD) services. The Duty Manager will assign the ASOs, in teams of three, to support a BDD dog handler or they will be assigned, in teams of three, to operate with detection technology e.g. CO2 probes or Heartbeat detection technology. It is essential that the Contractor's Staff are comfortable working in close proximity to dogs.

4.5 The ASOs will search vehicles using the appropriate detection technology provided by the Authority e.g. CO2 probes or Heartbeat Detectors or in conjunction with/support of specialist dog teams or Border Force officers. The Contractor will visually examine the exterior of the vehicle including axles, panniers, wind breaks or storage areas. When appropriate, the interior of the trailer and drivers cab will be searched either visually and/or assisted by detection technology to ensure the vehicle is not concealing illegal entrants.

4.6 Company seals on vehicles may be broken to gain access to a vehicle interior. The ASO will, after the vehicle has been declared clear, fit a seal provided by the Authority. The ASO will provide the driver of the vehicle with a written document (as supplied by the Authority) which confirms the original seal has been broken and replaced with an Authority seal. Customs seals must not be breached except by the Authority or Douanes (French Customs) Officer. The ASO

must not cause any unnecessary damage to a vehicle or to its load and the Contractor must accept total responsibility for any liability arising in this respect.

4.7 The Contractor will be responsible for the secure storage of all forms, seals and any detection equipment provided by the Authority. They will also be responsible for the replacement costs of any forms, seals and detection equipment lost or damaged through misuse. All losses or damage must be reported at the earliest opportunity to the Duty Manager. The Contractor shall ensure storage facilities are made available for inspection by the Authority.

4.8 In the event of a find of illegal entrant(s) the case is to be referred to the Duty Manager immediately upon detection; and upon authority the clandestine should be escorted safely to the holding facility, or other suitable location as identified by the Duty Manager

4.9 When an illegal entrant is encountered the Contractor must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to Duty Manager. All of this information must be discussed with the Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

4.10 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

4.11 The Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

4.12 Using appropriate transport the illegal entrant(s) must be escorted to the holding facility or as otherwise directed by the Duty Manager. Escort instructions are contained in Sections 6 & 7 of this Specification.

4.13 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

5. TOURIST VEHICLE SEARCHES AND MARSHALLING

5.1 In addition in the above, ASOs will be required to undertake searches on tourist vehicles including but not limited to coaches, cars, vans, motor homes, caravans, towed trailers etc which travel through the tourist control and they will be searched in areas agreed by the Authority.

5.2 The ASO teams will work in compliance with the Safe Systems of Work (SSOW)

5.3 The ASO's must report to the Authority's Duty Manager at the start of each shift. The team maybe allocated the tasks of controlling coach traffic arriving at the UK Border Force control; marshalling the coaches and passengers to and from the coach hall; searching coaches and other tourist vehicles.

5.4 Searches of tourist vehicles and coaches consist of a visual examination. If new detection technology is used to undertake this task, full training will be provided by the Authority.

5.5 In the event of a find of illegal entrant(s) the case is to be referred to the Authority's Duty Manager immediately.

5.6 When an illegal entrant is encountered the ASO must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to the Authority's Duty Manager. All of this information must be discussed with the Authority's Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

5.7 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

5.8 The Authority's Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

5.9 The illegal entrant(s) must be escorted to the holding facility or as otherwise directed by the Authority's Duty Manager. Escort instructions are contained in Sections 6 & 7 of this Specification.

5.10 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

6. ESCORTING & SEARCHING OF PERSONS

6.1 The Contractor will only provide Staff who have been authorised by the Secretary of State for the Home Department. The UK Immigration, Asylum and Nationality Act (2006) states that Authorised Search Officers are only permitted to detain persons for up to 3 hours in order to transfer custodians to another authority.

6.2 The Contractor must ensure the safe and secure custody at all times of the Detainees within its care, including in a detention vehicle used to transport detainees, as described in Section 11.2.

6.3 The Contractor must take all of the precautions necessary to prevent detainees from escaping whilst in their custody. In particular extra consideration needs to be taken when transferring Detainees into areas where they may be liable to escape.

6.4. If a Detainee attempts to escape or succeeds in escaping; the PAF and the Authority must be advised immediately and a written report on the matter should be submitted within twenty four hours of the Contractor becoming aware of the incident

6.5 The Contractor will be responsible for ensuring that Detainees and Dependent Children in their custody cause no damage to persons, property or themselves. The Contractor must carry out searches of Detainees and Dependent Children, in line with the requirements of current policy. Any Detainee or Dependent Children may only be searched by a member of Staff of the same gender.

6.6 Female Detainees and Dependent Children must be accompanied by a female operative when being escorted and when searched. As a result a female operative must be on duty at all

times. Detailed instructions regarding the search process will be provided during the training. Detainees will be searched only by trained ASO's of the same gender.

6.7 Special care should be taken of all Detainees or Dependent Children who are physically or mentally vulnerable.

6.8 Minors may only be transported with either their family members or a Responsible Adult if they arrive on their own. One escort officer must be of the same gender as the Detainee.

6.9 Items found during a search must be kept in secure bags noted with the owners' details and passed to the Authority or PAF officer as directed by the Duty Manager.

7. HANDOVER PROCEDURE

7.1 The Contractor must ensure at the time of collection the Detainee is the named person on the official notice.

7.2 The Contractor will be responsible for the Detainees' and Dependent Children's property, for example, money, medication, travel documents, official records and other documentation. The Contractor will account for all items and record on the appropriate paperwork whilst the Detainee is in their custody.

7.3 The Contractor will be responsible for the sealed property bags which must be signed for in the Holding Room. The Contractor must also ensure that any prescribed medication belonging to a Detainee or Dependent child is collected by the Contractor and held by them until their arrival at the Holding Room where it will be handed to Detention Custody Officers (DCO).

7.5 Where the Detainee has any visible injuries or complains of an injury the Contractor must make a note on the appropriate forms and ensure that the DCO's are aware of the injuries, and subsequently at the time of handover.

8. OPERATIONAL FLEXIBILITY

8.1 The Contractor will be required to be flexible when the Authority's deployment requirements change due to changes in risk to Border Security.

8.2 The Authority may require the Contractor to redeploy its staff to other Juxtaposed ports (Calais, Coquelles and Dunkerque). Staff being re-deployed to another Port will be required to do so within one (1) hour, unless otherwise agreed with the Authority.

9. TRAINING

9.1 In order for Contractors Staff to be Authorised by the Secretary of State for the Home Department, they must undertake specific training as described below and receive a "PASS" for that training.

9.2 The Contractor will be required to deliver the elements of the training specified in section 9.5 at its own cost which will include the trainer, venue, travel and accommodation costs and any other associated costs. It is essential that comprehensive training manuals are provided by the Contractor to its Staff.

9.3 The Authority will deliver certain specialised training, in the English language, to the Contractors Staff as specified in section 9.6. The Contractor will be responsible for making the

arrangements and paying for the cost of the training venue (sports hall type facility with padded mats), staff accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.4 A mentoring period between the Authority and the Contractor will be mandatory. The duration and timing of the mentoring will be mutually agreed between both parties. During the mentoring period, the Authority will observe the practical application of the skills of the Contractors Staff in the live operational environment.

9.5 Training: Contractor Obligations

9.5.1 The Contractor will be expected to provide and meet the full cost of training for its Staff as specified below. The training course details and content must be reviewed by the Authority prior to commencement of the training and reviewed annually, or when circumstances change requiring their update.

9.5.2 The Contractor must ensure that the trainers are suitably skilled to deliver the training specified below.

9.5.3 Staff must be provided with annual refresher courses and a training plan must be maintained for each member of Staff. All training records must be made available to the Authority upon request.

9.5.4 The course should enable effective training in the following mandatory subjects as a minimum requirement;

1. Health and Safety including Safe Systems of Working
2. Security Awareness (International Ship & Port Facility Security (ISPS) or equivalent)
3. First Aid
4. Fire Safety

9.5.5 The Contractor shall permit an Independent Monitor and/or an Authority's official to observe, examine and assess the training provided.

9.6 Training: Authority Obligations

9.6.1 The following training will be provided by the Authority to the Contractors Staff. This training currently takes 7 working days. The Authority will arrange and pay for the provision of the trainer, however, the Contractor will be responsible for making the arrangements and paying for the cost of the training venue (sports hall type facility with padded mats), staff accommodation, any translation services required and travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.2 The Authority will provide a maximum of 2 courses per year for a total of 40 (20 per course) new Staff recruited for Calais, Coquelles and Dunkerque services provision. Additional courses may be available upon request, however, in the event that more than two courses per year are required due to a high staff turnover, the Contractor will be held responsible for the costs.

9.6.3 The Authority will provide courses for annual refresher training which all Staff must undertake. The Contractor will be responsible for making the arrangements and paying for the

cost of the training venue, accommodation, any translation services required and travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.4 The Authority shall provide training to the Contractors Staff in the following mandatory subjects;

- Use of force, personal management skills, communication skills, searching skills, force reporting and writing, handcuffing skills, unarmed skills, baton skills, incapacitate skills, custody officer skills, vehicle skills.
- Medical implications of personal safety skills.
- The searching of persons and escorting procedures
- Managing the anxieties and stress of detention including children and vulnerable Detainees
- Safe and effective use of the appropriate detection technology
- Guidance on identifying signs of illegal entry in a vehicle.
- Guidance on how to perform the role safely whilst complying with the Authority's professional standards.
- Guidance on Safe Systems of Work (SSOW) for working with body detection dogs
- Legal framework, documentation, report writing and record keeping
- The application of UK Human Rights, children's legislation and cultural diversity and racial awareness

10. STAFF RESOURCES

10.1 The Contractor shall provide Authorised Staff 24 hours per day, 7 days per week and 52 weeks per year (excluding Christmas Day) based on the current operating model as set out in the following table;

Time	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
Team 1: Core Requirement (Total number of ASO present 24/7). Three (3) of these ASO MUST also be DCO trained. One (1) of the DCO MUST be Female.	6	6	6	6	6	6	6
Team 2: Additional number of ASO present 24/7	2	2	2	2	2	2	2
Team 3: Additional number of ASO present 24/7	3	3	3	3	3	3	3
Total number of ASO present 24/7	11	11	11	11	11	11	11

10.2 The Contractor will be required to provide the total Number of ASO specified in the table above from the Commencement Date of the Contract. However, the Contractor must note that;

10.2.1. pursuant to Clause H3 Termination on Notice and/or Clause F6 Variation, the Authority may request the termination of one or more of the teams set out in the table at any time during the Contract Term with 3 months written notice;

10.2.2. Pursuant to Clause B4 Optional Services, the Authority may require the provision of additional teams of ASO on a short term (from 1 day up to a maximum of 3 months), medium term (3-12 months) or long term (12 months or longer) basis;

- i) short term Optional Services may be requested by the Authority to provide additional teams of ASO in response to critical incidents such as severe weather disruption,

industrial action at the ports or a change to security threats or risk levels. The Authority anticipates that the Contractor shall provide Staff for short term Optional Services from its existing pool of ASO on an overtime basis. The Authority shall provide, whenever possible, seven (7) days written notice to the Contractor for short term Optional Services requests, however, due to the nature of critical incidents, the Contractor may be requested to deploy within 24 hours.

ii) Medium or long term Optional Services may be requested by the Authority to provide additional teams of ASO in response to longer duration issues including increased threat and risk to border security from illegal migrant activity, long term industrial action or other factors leading to increased security risks. The Authority shall provide three (3) months written notice to the Contractor for implementation of medium term or long term Optional Services requests.

iii) The scope of the Optional Services for the Port of Dunkerque is set out in the table below (Table 15 and Table 16 of the Price Schedule refers).

Table 15: Dunkerque Medium Term Optional Services	
Option 9	One Team of Three (3) ASO
Option 10	Two Teams of Three (3) ASO
Option 11	Three Teams of Three (3) ASO
Option 12	Four Teams of Three (3) ASO
Table 16: Dunkerque Long Term Optional Services	
Option 13	One Team of Three (3) ASO
Option 14	Two Teams of Three (3) ASO
Option 15	Three Teams of Three (3) ASO
Option 16	Four Teams of Three (3) ASO

iv) The Authority may require the Contractor to provide one or more of these Options at any time during the Contract Term and the Authority shall not limit the number of times any one of the Options shall be implemented.

v) Where the Authority implements a number of Optional Services over time, increasing the number of teams on an incremental basis, the price paid for the Optional Services shall be the rate for the Option relevant to the total number of additional teams. For example, if Option 1 is implemented, the Authority shall from that time pay the rate for Option 1. If Option 1 is then implemented again, say one month later, it shall pay the rate for both Optional Services at the rate specified in the Contract for Option 2. When the first Option 1 expires, the price paid shall then revert back to the Contract rate for Option 1.

10.3 The Contractor must ensure that it provides the specified number of ASO on every shift and that any meal breaks taken do not impact on the continuous delivery of the Services. The Contractor must specify shift start and finish times that account for staggered coverage to maintain continuous searching.

10.4 It is essential that at any one time at least one female ASO must be present to undertake the searching and escorting of female persons detained.

10.5 It is highly desirable that the Contractor's Staff have a basic knowledge of spoken and written English and French language because they will be working collaboratively with both English and French authorities, Contractors and the travelling public.

10.6 The Contractor must inform the Authority immediately of Staff that are sick or unable to perform duties; and give assurances that they will be replaced within one hour by another suitable qualified person. In the event that the Contractor is unable to provide such a replacement, then an appropriate Service Credit of the Contract Price must be credited in its monthly invoice.

11. VEHICLES

11.1 The Contractor will be responsible for the provision, support, insurance and maintenance of vehicles to ensure the continued effectiveness of searching and escorting roles.

11.2 The contractor will be responsible for the provision of vehicles suitable for transporting Detainees within the UK control zone. The detention vehicle must meet the following minimum specification:

Vehicle Specification

- Capacity: Driver + 8 Passengers
- Long wheel base.
- High Roof.
- Should be a van body with windows for the crew area and in the rear doors.
- A nearside opening sliding door.
- Twin crew seat in driver compartment.

Safety Features

- Electronic Stability Control
- Anti-lock Braking System
- Power Assisted Steering
- Driver and passenger airbag.
- First Aid Kit
- Dry powder fire extinguisher
- Life Hammer

Cell Compartment

- Fitted secure cell bulkhead with 4 M1 compliant forward facing seats with seat belts with release mechanism on aisle side.
- Rear Access Step.
- Rear door hinges to open to 180 degrees.

Vehicle Functionality

- Electric Front Windows.
- Remote Central Double Locking.
- Fitted Interior Mats – Driver compartment.

- Easy clean floor surface in crew and cell area for bodily fluid spillages.

11.3 The detention vehicle must be thoroughly inspected and searched for any security hazards before and after each journey.

11.4 In addition, the Contractor must provide vehicles for the transport of its Staff around the port; and to escort detained freight vehicles at the direction of the Authority.

11.5 All vehicles must be fit for the purpose and kept clean and in a roadworthy condition.

11.6 Material of a racially, sexually, or politically offensive nature must not be displayed in or on any part of a vehicle or any vehicle used in support of the contract services.

11.7 The Contractor is to ensure that each vehicle must comply with the security requirements set by the Port Authority for service vehicles operating within the port this will include a minimum requirement of suitable markings on the van and orange flashing light(s). The Contractor must seek the prior written approval of the Port Authority for the vehicles it provides and uses in the port environment.

12. MANAGEMENT SUPPORT

12.1 The Contractor will provide management support for the Operational requirement on a 24 hour basis, seven days a week. The Contractor must have an operations manager available at all times, day and night, to receive instructions from the Authority. The operations manager must be able to converse in English.

12.2 The Contractors Staff will report to and be directed by the Authority's Duty Manager. The Authority shall also assign a Freight Searching Liaison Officer ("FSLO") to the Contractor. The FSLO will provide the ASO teams with intelligence profiles and operational support when illegal entrants have been detected.

13. HEALTH AND SAFETY COMPLIANCE

13.1 It is essential that the Contractor establishes and complies with all relevant Health and Safety regulations. The Authority reserves the right to see all available documentation relevant to the contract.

13.2 The Contractor must comply with the statutory requirements for having regard to the need to safeguard and promote the welfare of children as specified in Section 55 of the Borders, Citizenship and Immigration Act 2009. The Contractor must also ensure the health and safety of Detainees, vulnerable adults, visitors and Staff.

13.3 The Contractor must maintain a Health and Safety (or local equivalent) policy statement which will be reviewed as often as appropriate, but at a minimum annually or when circumstances change requiring their update; and it must include the necessary arrangements for annual safety audits.

13.4 The Contractor will be responsible for producing risk assessments and safe systems of work in consultation with the Authority.

13.5 The Contractor must maintain records assuring that all Staff have read and understood the relevant risk assessments and safe systems of work.

13.6 All accidents, injuries or dangerous occurrences must be recorded in the appropriate manner. All accidents must be investigated and forms submitted to the Authority and, where appropriate, to the Health & Safety Executive or local equivalent.

13.7 The Contractor shall ensure that suitable provision is made to satisfy first aid requirements.

13.8 If an incident occurs the Contractor should report the incident to the Authority as soon as possible and, if required, contact the Police aux Frontières ("PAF"). A written report of the incident should be supplied to the Authority within 24 hours.

13.9 In the event of an emergency, the Contractor should contact the relevant emergency service immediately eg Pompier and notify the Authority as soon as practicable.

14. EQUIPMENT & UNIFORM

14.1 The Contractor will be responsible for provision and maintenance of Equipment. The Contractor will supply each team of 3 ASO with a ladder, torches, tools for removing company seals (bolt cutters) and a working camera with compatible SD card. The Equipment noted above must be maintained in safe working order.

14.2 The Contractor will supply each team of 3 ASO with a kit bag which will be carried at all times when searching vehicles. The kit bag must contain the Equipment specified above together with official seals, and any forms required to be completed by the Authority. The ladder should be readily accessible within the team's vehicle.

14.3 The Authority will provide ASOs with radio communications equipment (hereinafter referred to as Property"). The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any deficiencies to the effectiveness of use to the Authority immediately.

14.4 The Authority will provide ASOs with fully functioning and serviced CO₂ probes or Heartbeat detection technology ("Property") for the detection of illegal entrants concealed within vehicles. The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any deficiencies to the effectiveness of use to the Authority immediately.

14.5 In accordance with Clause B.15.5 of the Contract, the Contractor shall reimburse the Authority for all loss or damage to the Property.

14.6 In the event that clandestine detection technologies change, the Authority will deliver suitable training in the operation of the new equipment which the Contractor's Staff will be required to operate.

14.7 The Contractor must ensure that its Staff are equipped with the necessary and mandatory clothing to perform the task, including high visibility clothing. Consideration to inclement weather conditions should be a priority.

14.8 The Contractor must provide Staff with a uniform which has been approved by the Authority and ensures that individuals are readily identifiable; i.e. a name or number

corresponding to that individual can be seen on the uniform. Their ASO status should also be visible. The Contractor must ensure that, upon leaving its service, any member of Staff returns all items of uniform including identity badges and/or identity passes.

15. COMPLAINTS

15.1 The Contractor must implement procedures to investigate and respond to complaints made by the public about the Services delivery and professional conduct of Contractors Staff or allegations of theft, assault and any other allegations made by Detainees and Dependent Children. The Contractor must offer the complainant the opportunity to have the Police Aux Frontiere called and the Contractor may do so even in cases where the complainant does not wish that course of action to be taken.

15.12 The Contractor will be liable for any costs or compensation involved in the investigation of a complaint and its outcome.

15.2 Complaints are categorised as follows;

15.2.1 Minor misconduct is usually to do with isolated instances of rudeness and unprofessional conduct which are not serious enough to warrant a formal investigation and if substantiated they would not normally lead to discipline (misconduct) proceedings. Misconduct complaints are those which allege that the behaviour of any member of staff or contractor has failed to meet the Standards, for example;

- Incivility;
- Brusqueness;
- Isolated instances of bad language;
- An officer's refusal to identify themselves when asked;
- Poor attitude, e.g. being unhelpful, inattentive or obstructive

15.2.2 Serious misconduct is any unprofessional behaviour which, if substantiated, should lead to misconduct proceedings. These are categorised as follows;

- Criminal Assault
- Criminal Sexual Assault
- Criminal Theft
- Criminal Fraud or Corruption
- Racism or other discrimination
- Unfair treatment (e.g. harassment)
- Other unprofessional conduct including any behaviour likely to bring the Home Office into disrepute; or which casts doubt on a person's honesty, integrity or suitability to work for the Home Office.

15.2.3 Gross misconduct is Serious Misconduct which, if substantiated on investigation or admitted, could lead to suspension or revocation of Contractors Staff Authorisation.

15.3 The Contractor must ensure that the Authority is notified of all complaints within 24 hours of its receipt.

Minor Misconduct Complaints

15.4 The Contractor shall be required to investigate and respond to Minor Misconduct complaints. If the Contractor cannot resolve a complaint about Minor Misconduct within two working days it should send an acknowledgement to the complainant within two working days and reply substantively within 15 working days of the date the complaint was received.

15.5 The Contractor will nominate a single point of contact (SPOC) who has responsibility for ensuring its compliance with the complaints procedure.

15.6 The Contractor must ensure that there is in place an auditable mechanism for receiving and recording complaints and ensure that these records are available for inspection by the Authority's Representative upon request.

15.7 The Contractor must maintain full and accurate records of any such allegations and the investigated outcomes which must be submitted at the earliest opportunity to the nominated officer for the Authority.

Serious Misconduct Complaints

15.8 The Authority shall be required to investigate all Serious Misconduct complaints; the Staff member's Authorisation may be suspended for the duration of the investigation. The Independent Monitor will be notified by the Authority of all Serious Misconduct complaints and the Independent Monitor may be appointed to investigate and report to the Secretary of State about any allegation made against an Authorised person in relation to their specified duties. The Contractor is required to co-operate fully with any complaint investigation by the Authority or the Independent Monitor ensuring that all records are made available for inspection and Staff are made available for interview when requested.

15.9 In the event the Gross/Serious Misconduct complaint is proven, the Staff member's Authorisation may be suspended and revoked at the instruction of the Authority or the Independent Monitor. That individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Authorised Search Officer immediately to ensure that the agreed Staffing levels are maintained.

15.10 The Contractor will have to consider and respond to any recommendations stemming from 'Lessons Learned' process following a complaint. Implementation of agreed recommendations would be undertaken in line with the contract variation procedures.

15.11 Where the Contractor is found to have provided a sub standard service by not following the Authority's procedure or an investigation indicates failure to meet the required service or behaviour standard then the provisions of Clause H.2 Termination on Default of the Contract will apply.

15.12 The Authority will ensure that complaints are forwarded to the Independent Monitor as appropriate.

Staff Complaints

15.14 The Contractor shall provide a confidential complaints process for Staff to enable them to report any concerns in confidence that they may have regarding actions by other Staff or third parties.

15.15 Staff must report an act or omission by a third party which could constitute an illegal act or result in reputational damage to the Authority as soon as practical and no later than 12 hours after the event.

16. RECORDS

16.1 The Contractor shall produce and maintain clear, auditable records of the following:

- (i) Number of vehicles searched records – to be submitted at the end of each shift – to the Duty Manager
- (j) Missed or part sailings report – to be submitted at the end of each shift - to the Duty Manager
- (k) Clandestine detection proformas – to be submitted after each detection – to the Duty Manager
- (l) Shift reports – to be submitted at the end of each shift - to the Duty Manager
- (m) Weekly statistics – To be submitted at the end of each working week (for Sunday to Saturday_ - to the Authority
- (n) Performance of the Services (To be submitted at the end of each working week (for Sunday to Saturday) to the Authority Contract Monitor
- (o) Records of persons detained and all persons searched including details of items found and subsequent actions taken – to be submitted at the end of each shift to the Duty Manager
- (p) Key Performance Indicators (Schedule 4 of the Contract refers) – to be submitted to the Authority at the end of each month.

16.2 Copies of these records must be provided to the Authority at the Contractors expense. The Contractor's records must be maintained and readily available for examination by the Authority at any time during and after the contract in accordance with Clause E9 Audit of the Contract. The Authority will provide sample forms to the Contractor.

16.3 The Authority will require the Contractor to provide relevant records within 6 hours should there be a find of illegal entrants in the UK.

16.4 The Authority will provide the Contractor with specific forms used within the operation; ASO 100 – Notice to detainee

16.5 The Contractor must ensure that the records it holds are kept in accordance with Section E, Protection of Information of the Contract.

17. PREMISES

17.1 The Supplier must make its own arrangements for the provision of office or rest accommodation at the Port with the appropriate Port Authority.

18. CONTINGENCY PLANNING

18.1 Contingency plans shall be prepared by the Contractor and approved by the Authority prior to the commencement of the Services and two copies of these plans will be held by the Authority. The contingency plans shall be reviewed and updated at least once a year or when circumstances or operational requirements change.

The contingency plans shall address the following potential incidents as a minimum:-

- Death of a Detainee, Dependent Child or any other person
- Acute illness of a Detainee, Dependent Child or any other person
- Suicide and/or attempted suicide
- Accidents, assaults, injuries or fights
- Demonstrations
- Detainees with mental/ physical health issues

- Detainees who escapes or attempt to escape
- Concerted indiscipline, barricading or hostage taking
- Key/lock compromise
- Fire, bomb, threat or other act causing disruption to the search of vehicles, search of persons or escort activity
- Industrial action by Contractor's Staff
- Adverse bad weather conditions
- Significant events disrupting travel patterns (e.g. Volcanic Ash Cloud)

Specification No.3: Operational Requirement - Dunkerque Port

Part 2: Detention Services

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1. PURPOSE

1.1 The Authority is responsible for the implementation of the UK Immigration Acts. The Sangatte Protocol and the Treaty of Le Touquet enable the Authority to exercise its immigration powers within defined UK Control Zones in France, otherwise known as the Juxtaposed Controls.

1.2 Border Force is a law-enforcement command of the Authority. Officers of Border Force ("Border Force Officers") are designated immigration officers for the purpose of the UK Immigration Acts and this Operational Requirement

1.3 The Authority has a Holding Room at Dunkerque Port for the purpose of providing Border Force Officers with the facility to temporarily detain individuals pending further investigation and enquiry. Where the Detainee is subsequently refused entry, the Detainee is then discharged into the custody of the PAF.

1.4 The Authority requires a Contractor to provide Detainee Custody Officer ("DCO") services at the Holding Room at Dunkerque Port as specified in Part VIII of the Immigration and Asylum Act 1999. All Contractors Staff designated to perform DCO functions must be trained and authorised as Authorised Search Officer in accordance with the Specification for Dunkerque, Part 1 before commencing detention services training.

2. AUTHORISATION AND SECURITY CLEARANCE

2.1 Authorisation from the Secretary of State for the Home Department is mandatory ("Authorisation"). The Contractor must only allow those who have received the appropriate Authorisation to undertake work in connection with this contract.

2.2 All Contractor Staff may be subject to checks against criminal records for the purposes of security clearance.

2.3 As part of the United Kingdom's obligations under the Optional Protocol to the United Nations Convention against Torture and Inhuman and Degrading Treatment, Her Majesty's Inspectorate of Prisons for England and Wales ("HMIP") is an independent inspectorate which will report on conditions for and treatment of those in prison, young offender institutions and immigration detention facilities. From time to time, the HMIP may conduct an inspection of the Dunkerque Holding Facility. Any inspection is usually carried out in co-operation with the corresponding French Authority.

2.5 A Staff member's Authorisation may be suspended and revoked at the request of the Authority or the HMIP. Should this arise the individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement DCO immediately to ensure that the agreed Staffing levels are maintained.

2.6 In addition to the Authority security clearance procedures, the Port of Dunkerque Authorities may also wish to conduct additional checks prior to the Contractor's Staff being permitted to access the port.

2.7 All Contractor's Staff which have been trained and Authorised by the Secretary of State for the Home Department shall be designated Key Personnel for the purposes of Clause B.11 of the Contract.

3. LOCATION

3.1 The Services set out in this specification are principally required at Dunkerque port.

4. DETENTION OF PERSONS

4.1 Holding Rooms

4.1.1 The Contractor shall ensure that all Holding Room Services remain operational 24 hours per day/ 365(6) days per year with sufficient Staff and supervisory Staff levels, which shall be two (2) DCOs as a minimum whilst the Holding Room is occupied. The Holding Room has capacity for approx 20 detainees at one time.

4.1.2 In practice, whenever the Holding Room is empty, the Authority may require the DCO's to be redeployed to support freight searching services at the port. The DCO's, when providing freight searching services, shall comply with the requirements of the Part 1 Operational Requirement for Dunkerque Port.

4.1.3 The Contractor shall manage Holding Rooms in accordance with any relevant insurance, Port Operator and Authority requirements

4.1.4 The Contractor will only provide staff who have been authorised by the Secretary of State for the Home Office as DCOs to undertake this function.

4.1.5 The Contractor shall ensure that all arrangements for a Detainee in a Holding Room are based on the safety and security of the Detainee and Contractors Staff as determined by individual risk assessments carried out by The Contractor.

4.1.6 The Contractor shall notify the Authority in the event of Holding Room capacity being reached or nearing being reached and shall assist the Authority with contingency actions that result. The contractor will include such scenarios within its contingency plans.

4.1.7 The Contractor shall maintain good order within the Holding Room and shall take all steps to prevent damage to the Holding Room, including fittings and furnishings, and other individual's property.

4.1.8 The Contractor shall ensure that a female DCO is present on duty in the Holding Room from the initial detention of a female Detainee unless prior authority is obtained from the Authority to waive this requirement for that Detainee, or the Contractor's risk assessment indicates that to do so would present too great a risk for a female DCO.

4.1.9 The Contractor shall ensure that a female DCO is present on duty in the Holding Room from the initial detention of a Child or Unaccompanied Minor unless prior authority is obtained from the Authority to waive this requirement for that Detainee, or the Contractor's risk assessment indicates that to do so would present too great a risk for a female DCO.

4.1.10 The Contractor shall ensure that the Authority is immediately notified of the presence of a Child or Unaccompanied Minor in a Holding Room and thereafter every two (2) hours.

4.1.11 Where a Detainee has been detained continuously in a Holding Room for six (6) hours, The Contractor shall advise the Authority, and thereafter every three (3) hours, of the Detainee's continued detention.

4.1.12 The Contractor shall ensure that the Authority is informed if a Detainee requests the PAF to attend the Holding Room.

4.1.13 The Contractor shall co-operate fully with the PAF and the Authority during any incident in a Holding Room. For the avoidance of doubt the PAF shall assume primacy in the event of managing an incident.

4.2 Welfare

4.2.1 The Contractor shall regularly, as a minimum every hour, (and every fifteen minutes for Children and Unaccompanied Minors), check the presence and wellbeing of each Detainee in the Holding Rooms, take action to resolve or mitigate any issues or concerns and record the issues, concerns and action taken.

4.2.2 The Contractor shall display information in the Holding Rooms in designated languages which as a minimum shall include advice on the Holding Room facilities, fire and evacuation procedures and complaint procedures. The Authority will provide the relevant notices in the designated languages to the Contractor for this purpose.

4.2.3. The Contractor shall ensure that in the Holding Room the following are made available: aA variety of magazines, newspapers and periodicals appropriate to the Detainee population; and copies of any other relevant publications, as required by the Authority.

4.2.4 The Contractor shall ensure that a Detainee has access to the following free of charge:

- a) Drinking water at all times;
- b) Toilet facilities at all times; with access to soap and facility to dry hands
- c) Female sanitary protection on a self-service basis;
- d) Nappies, potties and baby changing facilities as necessary;
- e) Clean blankets (foil), pillows and pillow cases at any time whilst in the Holding Room;
- f) Items to facilitate positive engagement with Children and Unaccompanied Minors, including toys, DVDs and working DVD player, and electronic games (or comparable activities).

4.3 Race Relations and Religion

4.3.1 The Contractor shall ensure that a Detainee is able, if he so wishes, to practice his religious faith in order to meet his spiritual needs as far as practicable. This shall include making available facilities for prayer, religious observance and pastoral care, wherever practicable.

4.4. Safety and Security

4.4.1 The Contractor shall ensure that the Authority is immediately notified of any matters of concern regarding the integrity of physical security systems and arrangements.

4.4.2 Where CCTV is provided in the Holding Room, the Contractor shall ensure that any known fault with the system is immediately reported to the Authority.

4.5 Healthcare

4.5.1 The Contractor shall in the case of a medical emergency shall immediately summon the emergency services (Pompiers) and then notify the Authority when practicable. The Contractor shall exercise all appropriate care for the Detainee pending the arrival of the emergency services.

4.5.2 The Contractor should have access to medical advice, possibly via a triage line, for advice on medicines and incidents or illnesses that the Contractor does not consider an emergency.

4.5.3 The Contractor must have in place clear operational instructions on healthcare procedures for Staff, a copy of which must be provided to the Authority.

4.6 Cleaning

4.6.1 Notwithstanding the Authority's or the Port Operator's obligation to provide cleaning services, The Contractor shall ensure that the Holding Rooms are kept generally clean and tidy at all times.

4.6.2 The Contractor shall advise the Authority where the standard of cleaning carried out by others falls below advised standards.

4.7 Catering

4.7.1 The Contractor shall have in place procedures to ensure that a Detainee is offered meal options that take account of the Detainee's age and religious, dietary, cultural and healthcare needs.

4.7.2 The Contractor shall ensure that the supply, transport and storage arrangements for food and all associated food facilities, processes and practices comply with all relevant food safety legislation, which shall include the training of Staff in appropriate food handling procedures.

4.7.3 The Contractor shall offer light refreshments to Detainees upon admission into custody. The Contractor shall ensure the Detainee is provided with the light refreshments and hot/ cold drinks without charge.

4.7.4 After (4) hours, the Contractor shall check with the Authority the likely duration of detention. If the Detainee is to be held for a longer period, the Detainee maybe offered a hot meal option; that will account of the Detainee's age and religious, dietary, cultural and healthcare needs. The Contractor shall ensure the Detainee is provided with the preferred option without charge.

4.7.5 The Contractor shall provide a vegetarian option at all meal times for a Detainee.

4.7.6 The Contractor shall provide all appropriate safety eating utensils to a Detainee.

4.7.7 The Contractor shall safely dispose of any waste and associated consumables that arise from the consumption of food and drink.

5. ADMISSION AND DISCHARGE

5.1 The Contractor shall also co-operate with, but not limited to, the French Authorities and other Authority engaged service providers to ensure the safe transfer of custody of a Detainee.

5.2 The Contractor must ensure at the time of admission that the Detainee is the named person on the official notice.

5.3 The Contractor will be responsible for the Detainees' and Dependent Children's property, for example, money, medication, travel documents, official records and other documentation. The Contractor will account for all items and record on the appropriate paperwork whilst the Detainee is in their custody.

5.4 The Contractor will be responsible for the sealed property bags which must be signed for in the detention centre/PAF records. The Contractor must also ensure that any prescribed medication belonging to a Detainee or Dependent child is collected by the Contractor and held by them until arrival at their destination where it will be handed to the new custodian.

5.5 Where the Detainee has any visible injuries or complains of an injury the Contractor must make a note on the appropriate forms and ensure that the officers responsible for the detention area are aware of the injuries, and subsequently at the time of handover.

5.6 The Contractor shall ensure that upon first admission at the Holding Room a Detainee is, as a minimum, made aware of the information displayed in the Holding Room (Paragraph 4.2.2 refers).

5.7 When the Contractor receives a Detainee into its custody, The Contractor shall be responsible for the safe custody of a Detainee's property that he is not entitled to retain on the grounds that such retention is contrary to the interests of safety and security.

5.8 The Contractor shall manage the transfer or release of a Detainee from the Holding Rooms as directed by the Authority, including where such direction is at very short notice and ensure that a Detainee is ready for transfer or release at the correct time.

5.9 The Contractor shall ensure that all Detainee records and paperwork are complete and up to date ready to be handed to the next custodian upon transfer of custody, such that there will be no delay to the custody transfer process due to incomplete records or paperwork.

6. COMMUNICATIONS

6.1 The Contractor shall ensure that only Visitors, who have been authorised by the Authority, are permitted to visit a Detainee who is detained in the Holding Room.

6.2 The Contractor shall ensure arrangements are in place to record details of a Visitor, including the commencement of the visit and departure time.

6.3 The Contractor shall ensure that a Detainee has access to a telephone capable of making international calls whilst in the Holding Room, unless directed otherwise by the Authority or where a risk assessment justifies access being denied on the grounds of a threat to the safety and security of the Detainee, Staff or any other person.

6.4 The Contractor shall ensure that a Detainee in the Holding Room who has been denied possession of their camera phone, is able to use the SIM card from that phone in a mobile phone provided by the Contractor.

7. SECURITY

7.1 The Contractor must take all of the precautions necessary to prevent Detainees from escaping whilst in detention. In particular extra consideration needs to be taken when transferring Detainees into possible areas that have the potential to present an opportunity for escape.

7.2 The Contractor must ensure they maintain security of the detention area to prevent Detainees from attempting to escape through regular audits of the detention site and the correction of any problems identified. If a Detainee attempts to escape or succeeds in escaping the PAF and the Authority must be advised immediately and a written report on the matter should be submitted within twenty four hours of the incident

7.3 In the event the DCO's have to employ use of force, the Contractor shall advise the Authority as soon as practicable.

7.4 The Contractor will be responsible for ensuring that Detainees and Dependent Children in detention cause no damage to persons, property or themselves. The Contractor must carry out searches of Detainees and Dependent Children, in line with the requirements of current legislation. Special care should be taken of all Detainees or Dependent Children who are physically or mentally disabled.

7.5 Dependent Children and Unaccompanied Minors shall be searched on arrival at the Holding Room. Searches may also be conducted during their detention if deemed necessary to maintain safety and security.

7.6 Searching of Dependent Children and Unaccompanied Minors should be undertaken using a metal detecting wand. Only where a risk assessment indicates that it is necessary or if the wand alarm is set off may a child be given a level B rub down search. In the first instance, the child or parent should be asked to remove the item setting off the alarm. If they refuse, the officer should endeavour to verbally persuade them to cooperate. If they continue to refuse, the child should be given a level B rub down search by two officers of the same sex as the child. Where practicable, a parent/carer should be present during the search.

7.7 Babies should only be searched in exceptional circumstances and, wherever possible, two female DCOs must conduct the search. If two female DCOs are unavailable, then one female and one male DCO may conduct the search. A search by one female and one male DCO will require the Contractor's operations manager's authority and a note should be made of the reasons for the exception to the two female searchers policy. Where practicable, a parent/carer should be present during the search.

7.8 The DCO's must ensure, as far as practicable, that children understand the reason for the search, which must be explained in a language and in age appropriate terms that they understand. Where practicable, a parent/carer should be asked to assist in giving the explanation. Children should be reassured before and throughout the search.

8. OPERATIONAL FLEXIBILITY

8.1 Whenever the Holding Room is empty, the Authority may require the DCO's to be redeployed to support freight searching services at Dunkerque Port.

9. TRAINING

9.1 Part VIII of the Immigration and Asylum Act 1999 requires that Detainee Custody Officers (DCO) must be certified by the Secretary of State as being fit and proper persons to be such officers and as having received training to a standard to be set by the Secretary of State.

9.2 In addition to the training and Authorisation requirements set out in the Operational Requirement for Dunkerque Port: Part 1, Contractor's Staff which are to be designated DCO must undertake specific training as described below and receive a "PASS" for that training.

9.3 The Authority will deliver a specialised Detainee Custody Officer "train the trainer" training course, in the English language, to the Contractor's Staff as specified in section 9.4. The Authority will be responsible for making the arrangements and paying for the cost of the training venue and the trainer. The Contractor will be responsible for making the arrangements and paying for staff

accommodation, translation services, travel and subsistence costs for its Staff arising from the delivery of this training.

9.4 DETAINEE CUSTODY OFFICER TRAINING

9.4.1. The Authority shall deliver a “Train the Trainers” course to four (4) suitably skilled Contractors Staff which is four (4) weeks in duration and which will take place in the UK. Once the Contractors designated training Staff achieves a “PASS” they can cascade the training internally to the Contractors Staff. The internal DCO training course will have duration of three (3) weeks.

9.4.2 The Contractor will deliver in-house DCO training at its own cost and provide comprehensive training manuals to its DCO Staff. The Contractor will permit the Authority to observe, examine and assess the training provided by the Contractors training Staff.

9.4.3 The DCO training course will cover the following mandatory subjects:

- Health & Safety at Work
- Accident reports and Investigation
- Professional Standards
- Gender and Sexuality
- Security Documents and Forms
- Vehicle Searching
- Rubdown Searching
- Area Searching
- Body Mounted Cameras
- Detention Rules 2001
- Radio Procedures
- Report Writing
- Detainee Escorting
- Substance Awareness
- Security Awareness & Evidence Gathering
- Conditioning
- Receipt Writing for Property
- Human Rights
- Diversity & religion
- Reception, Discharge Process & Fingerprinting
- Use of the Fish Knife Rules & safety
- Interpersonal Skills
- Safer detention & Anti-Bullying
- Managing Vulnerable detainees
- Fire Safety
- Incident Command
- Mental Health Awareness
- Detention Centre Visits

9.4.4 The Contractor will be responsible for refresher training in the areas detailed below, the subject matter may change in line with changes to Policy. The Contractor shall be responsible for all associated costs for the delivery of the refresher training.

- a) Control and restraint (now Home Office Manual for Escorting Safely (HOMES))

- b) Anti-bullying
- c) Child protection and safeguarding children
- d) Cultural awareness
- e) First aid

f) Physical Control in Care 9.4.5 Staff must be provided with annual refresher training and a training plan must be maintained for each member of Staff. All training records must be made available to the Authority upon request.

9.4.6 All training course details and content must be reviewed by the Authority prior to commencement of the training and reviewed annually, or when circumstances change requiring their update.

10. STAFF RESOURCES

10.1 The Contractor is required to provide a minimum of three (3) DCO per shift which MUST include one (1) female DCO;

- a) Two DCO will provide detention services at the Holding Room.
- b) The third DCO will operate flexibly performing freight searching services but redeploy to the Holding Room when additional support is required.
- c) In the event the Holding Room is empty, all DCO will redeploy to freight searching.

10.2 The Contractor must ensure that it provides the specified number of DCO on every shift and that any meal breaks taken do not impact on the continuous delivery of the Service requirement. The Contractor must specify shift start and finish times that account for staggered coverage to maintain continuous coverage.

10.3 It is essential that at any one time at least one female DCO must be present to undertake the searching and escorting of female persons detained.

10.4 It is highly desirable that the Contractor's Staff have a basic knowledge of spoken and written English and French language because they will be working collaboratively with both English and French authorities, Contractors and the travelling public.

10.5 The Contractor must inform the Authority immediately of Staff that are sick or unable to perform duties; and give assurances that they will be replaced within one hour by another suitable qualified person. In the event that the Contractor is unable to provide such a replacement, then an appropriate Service Credit of the Contract Price must be credited in its monthly invoice.

10.6 Whilst a minimum of two officers are required to undertake detention and escorting duties. In order to maximise the searching of vehicles and enhance detection rates, the detention and escorting officers should be deployed to undertake freight searching whilst there are no Detainees in the Holding Room.

11. VEHICLES

Not applicable.

12. MANAGEMENT SUPPORT

12.1 The Contractor will provide management support for the Operational requirement on a 24 hour basis, seven days a week. The Contractor must have a Duty manager available at all times, day and night, to receive instructions from the Authority. The Duty Manager must be able to converse in English.

13. HEALTH AND SAFETY COMPLIANCE

13.1 It is essential that the Contractor establishes and complies with all relevant Health and Safety regulations. The Authority reserves the right to see all available documentation relevant to the contract.

13.2 The Contractor must comply with the statutory requirements for having regard to the need to safeguard and promote the welfare of children as specified in Section 55 of the Borders, Citizenship and Immigration Act 2009. The contractor must also ensure the health and safety of Detainees, vulnerable adults, visitors and Staff.

13.3 The Contractor must maintain a Health and Safety (or local equivalent) policy statement which will be reviewed as often as appropriate, but at a minimum annually or when circumstances change requiring their update; and it must include the necessary arrangements for annual safety audits.

13.4 The Contractor will be responsible for producing risk assessments and safe systems of work.

13.5 The Contractor must maintain records assuring that all Staff have read and understood the relevant risk assessments and safe systems of work.

13.6 All accidents, injuries or dangerous occurrences must be recorded in the appropriate manner. All accidents must be investigated and forms submitted to the Authority and, where appropriate, to the Health & Safety Executive or local equivalent.

13.7 The Contractor shall ensure that suitable provision is made to satisfy first aid requirements.

13.8 If an incident occurs they should report the incident to the Authority as soon as possible and, if required, contact the Police aux Frontières ("PAF"). A written report of the incident should be supplied to the Authority within 24 hours.

13.9 In the event of an emergency contact the relevant emergency service immediately e.g. Pompier. Notify the Authority as soon as practicable.

14. EQUIPMENT & UNIFORM

14.1 The Contractor must ensure that its Staff are equipped with the necessary and mandatory clothing to perform the task, including high visibility clothing. Consideration to inclement weather conditions should be a priority.

14.2 The Contractor must provide Staff with a uniform which has been approved by the Authority and ensures that individuals are readily identifiable; i.e. a name or number corresponding to that individual can be seen on the uniform. Their DCO status should also be visible. The Contractor must ensure that, upon leaving its service, any member of Staff returns all items of uniform including identity badges and/or identity passes.

14.3 The Contractor will be responsible for provision and maintenance of Equipment for DCO's which must be provided with;

- Handcuffs
- Ligature Knives
- Metal detection wand
- First Aid Pouch
- ID badges.

15. COMPLAINTS

15.1 The Contractor must implement procedures to investigate and respond to complaints made by the public about the Services delivery and professional conduct of Contractors Staff or allegations of theft, assault and any other allegations made by Detainees and Dependent Children. The Contractor must offer the complainant the opportunity to have the Police Aux Frontiere called and the Contractor may do so even in cases where the complainant does not wish that course of action to be taken.

15.12 The Contractor will be liable for any costs or compensation involved in the investigation of a complaint and its outcome.

15.2 Complaints are categorised as follows;

15.2.1 Minor misconduct is usually to do with isolated instances of rudeness and unprofessional conduct which are not serious enough to warrant a formal investigation and if substantiated they would not normally lead to discipline (misconduct) proceedings. Misconduct complaints are those which allege that the behaviour of any member of staff or contractor has failed to meet the Standards, for example;

- Incivility;
- Brusqueness;
- Isolated instances of bad language;
- An officer's refusal to identify themselves when asked;

Poor attitude, e.g. being unhelpful, inattentive or obstructive

15.2.2 Serious misconduct is any unprofessional behaviour which, if substantiated, should lead to misconduct proceedings. These are categorised as follows;

- Criminal Assault
- Criminal Sexual Assault
- Criminal Theft
- Criminal Fraud or Corruption
- Racism or other discrimination
- Unfair treatment (e.g. harassment)

- Other unprofessional conduct including any behaviour likely to bring the Home Office into disrepute; or which casts doubt on a person's honesty, integrity or suitability to work for the Home Office.

15.2.3 Gross misconduct is Serious Misconduct which, if substantiated on investigation or admitted, could lead to suspension or revocation of Contractors Staff Authorisation.

15.3 The Contractor must ensure that the Authority is notified of all complaints within 24 hours of its receipt.

Minor Misconduct Complaints

15.4 The Contractor shall be required to investigate and respond to Minor Misconduct complaints. If the Contractor cannot resolve a complaint about Minor Misconduct within two working days it should send an acknowledgement to the complainant within two working days and reply substantively within 15 working days of the date the complaint was received.

15.5 The Contractor will nominate a single point of contact (SPOC) who has responsibility for ensuring its compliance with the complaints procedure.

15.6 The Contractor must ensure that there is in place an auditable mechanism for receiving and recording complaints and ensure that these records are available for inspection by the Authority's Representative upon request.

15.7 The Contractor must maintain full and accurate records of any such allegations and the investigated outcomes which must be submitted at the earliest opportunity to the nominated officer for the Authority.

Serious Misconduct Complaints

15.8 The Authority shall be required to investigate all Serious Misconduct complaints; the Staff member's Authorisation may be suspended for the duration of the investigation. The Contractor is required to co-operate fully with any complaint investigation by the Authority, the Independent Monitor or any relevant authority of the Crown ensuring that all records are made available for inspection and Staff are made available for interview when requested.

15.9 In the event the Gross/Serious Misconduct complaint is proven, the Staff member's Authorisation may be suspended and revoked at the instruction of the Authority, Independent Monitor or relevant authority of the Crown. That individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Detainee Custody Officer immediately to ensure that the agreed Staffing levels are maintained.

15.10 The Contractor will have to consider and respond to any recommendations stemming from 'Lessons Learned' process following a complaint. Implementation of agreed recommendations would be undertaken in line with the contract variation procedures.

15.11 Where the Contractor is found to have provided a sub standard service by not following the Authority's procedure or an investigation indicates failure to meet the required service or behaviour standard then the provisions of Clause H.2 Termination on Default of the Contract will apply.

Staff Complaints

15.12 The Contractor shall provide a confidential complaints process for Staff to enable them to report any concerns in confidence that they may have regarding actions by other Staff or third parties.

15.13 Staff must report an act or omission by a third party which could constitute an illegal act or result in reputational damage to the Authority as soon as practical and no later than 12 hours after the event.

16. RECORDS

16.1 The Contractor shall provide the following Management Information reports to the Authority, the contents of which are outlined and shall be agreed with the Authority during the Mobilisation Period:

- a) Daily Records
- b) Monthly Summary Report;
- c) Monthly Management Information Report; and
- d) Quarterly Benchmarking Report.

16.2 In addition to regular reporting the Contractor shall also ensure that any Management Information can be provided to the Authority upon request.

16.3 The Contractor shall ensure the information required below can be provided to the Authority by:

- a) Detention Case (including but not limited to Detainee case/Home Office reference numbers, name, age, gender, nationality, welfare/healthcare Data);
- b) Activity (including but not limited to detention location and time, Escort time, location and journey, use of a vehicle, use of force, medical event, incident,)); and
- c) Resource (Staff name/number, Staff role, location/time of Staff member on a given activity).

16.4 The Contractor shall record and store the information set out in the tables below which shall be provided to the Authority upon request.

Daily Records

	Daily Records
1	<u>Tasking Data</u> Record of all instructions received from the Authority • Date and time received • Date and time of Detainee collection (planned and actual)

	Daily Records
2	<u>Welfare Data</u> Time, date and details of: • Meals, refreshments • Provision of facilities for Children
3	<u>First Aid</u> Date, time, details of First Aid events (also refers to when the Pompiers are summoned)
4	<u>Staff Data</u> • Details of Staff per shift (including Staff identification number, name, gender, nationality, role eg. DCO) • Shift location, time and date • Duration of Staff time spent per shift on DCO activity
5	<u>Detainee property</u> • Searching records • Records of Detainee's property and its consignment • Items in custody of Service Provider on behalf of a Detainee • Confiscated material or items (and associated arrangements for disposal/storage)
6	<u>Visits</u> (applicable to both Visitor(s) and Official Visitor(s)) • Visit details • Visitor details • Time of arrival and departure
7	<u>Training</u> Training records

Monthly Summary Report

	Monthly Summary Report
8	<u>Staff summary, including:</u> • Staff utilisation (Staff engaged in DCO activity / ASO Activity) • Staff engaged on Escort activity • Staff engaged on Holding Room activity • Staff pending certification having completed Initial training (non-operational) • Number of Staff left employment during the month
9	Training summary (numbers of Staff completing each type of required training)
10	<u>Vehicle summary, including:</u> • Number of vehicles (by vehicle type) • Hours vehicle off road (by vehicle type) • Vehicle mileages (by vehicle type) • Vehicle production (by day / night)
11	<u>Summary of Holding Room workloads including:</u> • Number of Detainees • Number of light refreshments • Number of main meals • Number of occasions medical staff in attendance • Summary of length of stay
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13	<u>Summary of use of force by Service area, including:</u> • With restraints • Without restraints • Passive • Emergency control and restraint • % of all Escorts, Removals, occupants
14	<u>Summary of incidents by Service area and incident type, including:</u> • Self harm incidents • Other 'Red' incidents (as defined in the relevant DSOs) • Escapes

	Monthly Summary Report
15	<u>Summary of complaints by Service area, including:</u> • Complaints received • Complaints cleared • Substantiated complaints • Number of complaints outstanding • Number of complaints taken over by the Authority • Average time taken to deal with a complaint

Monthly Management Information Report

	Monthly Management Information Report
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	Monthly Management Information Report
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24	<u>Use of Handcuffs</u> • Number of uses • Passive use • Emergency use • Duration
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26	<u>Notifiable Incidents</u> (ref: DSOs – incident reporting) Number and details of Notifiable Incidents by category
27	<u>Incidents</u> Number and details of incidents where a Child or Unaccompanied Minor is present (indicative examples: use of force on family member, splitting of their family)

	Monthly Management Information Report
28	<u>Complaints</u> • Date and details of complaints (including source/ nature of complaint e.g. criminal, welfare) • Details of Staff member(s) investigating complaint • How complaint has been dealt with • Details of complaints cleared / substantiated • Outcome (if known) • Conclusion date

Quarterly Benchmarking Report

	Quarterly Benchmarking Report
29	<u>Service Improvement information</u> • Breakdown of Service Improvement activities currently being undertaken • Baseline performance prior to Service Improvement activity • Current performance • % change from Baseline • % progress towards agreed performance target • Issues and future activities
30	<u>Health and Safety</u> Health and Safety records

16.5 Copies of these records must be provided to the Authority at the Contractors expense. The Contractor's records must be maintained and readily available for examination by the Authority at any time during and after the contract in accordance with Clause E9 Audit of the Contract.

16.6 The Contractor must ensure that the records it holds are kept in accordance with Section E, Protection of Information of the Contract.

17. PREMISES

17.1 The Supplier must make its own arrangements for the provision of office or rest accommodation at the Port with the appropriate Port Authority.

18. CONTINGENCY PLANNING

18.1 Contingency plans shall be prepared by the Contractor and approved by the Authority prior to the commencement of the Services and two copies of these plans will be held by the

Authority. The contingency plans shall be reviewed and updated at least once a year or when circumstances or operational requirements change.

The contingency plans shall address the following potential incidents as a minimum:-

- Death of a Detainee, Dependent Child or any other person
- Acute illness of a Detainee, Dependent Child or any other person
- Suicide and/or attempted suicide
- Accidents, assaults, injuries or fights
- Demonstrations
- Detainees with mental/ physical health issues
- Detainees who escapes or attempt to escape
- Concerted indiscipline, barricading or hostage taking
- Key/lock compromise
- Fire, bomb, threat or other act causing disruption to the search of vehicles, search of persons or escort activity
- Industrial action by Contractor's Staff
- Adverse bad weather conditions
- Significant events disrupting travel patterns (e.g. Volcanic Ash Cloud)

Specification No.4: Operational Requirement - Eurotunnel Terminal Coquelles

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1. PURPOSE

1.1 The Authority is responsible for the implementation of the UK Immigration Acts. The Sangatte Protocol and the Treaty of Le Touquet enable the Authority to exercise its immigration powers within defined UK Control Zones in France, otherwise known as the Juxtaposed Controls. Arrangements made under clauses 40 and 41 of the UK Immigration Asylum and Nationality Act 2006 also allow for the examination of freight and tourist vehicles by a person authorised by the Crown for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine.

1.2 Border Force is a law-enforcement command of the Authority. Officers of Border Force ("Border Force Officers") are designated immigration officers for the purpose of the UK Immigration Acts and this Operational Requirement

1.3 The Authority has a requirement for a Contractor to provide security services to support its operational activities in the Eurotunnel Terminal in Coquelles; Northern France by examining vehicles for the purpose of identifying and denying admission to people entering or attempting to enter in breach of the Immigration Act.

1.4 The Services include vehicle searching (freight and tourist vehicles) which is achieved by using detection technology and effective deployment of freight searching teams working collaboratively with another Contractor contracted to provide detection dog teams; and escorting functions which may require the detention of an individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of a Border Force Officer or other authority to whom the individual is to be delivered.

2. AUTHORISATION AND SECURITY CLEARANCE

2.1 Authorisation from the Secretary of State for the Home Department is mandatory ("Authorisation"); the Contractor must only allow those who have received the appropriate Authorisation to undertake work in connection with this Contract. This Authorisation process may take up to 12 weeks and once concluded satisfactorily the Contractors Staff shall be referred to as Authorised Search Officers or "ASO's".

2.2 All Contractor Staff may be subject to checks against criminal records for the purposes of security clearance.

2.2 An Independent Monitor will be appointed by the Secretary of State for the Home Department whose job it will be to undertake regular inspections of the application of the powers of search and detention employed by the Authorised Search Officers. The Independent Monitor may also investigate complaints or failings that come to his/her notice and will report directly to the Secretary of State. The Independent Monitor will require access to the Contractors documents and reports including Staff information. The Independent Monitor will therefore require the full co-operation of the Contractor in the performance of its duties.

2.3 A Staff member's Authorisation may be suspended and revoked at the request of the Authority or the Independent Monitor. Should this arise the individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Authorised Search Officer immediately to ensure that the agreed Staffing levels are maintained.

2.4 In addition to the Authority's security clearance procedures, Eurotunnel may wish to conduct additional checks prior to the Contractor's Staff being permitted access to the port.

2.5 All Contractors' Staff which have been trained and authorised by the Secretary of State of the Home Department shall be designated Key Personnel for the purpose of Clause B.11 of the Contract.

3. LOCATION

3.0 The Services set out in this specification are principally required at the Eurotunnel Terminal at Coquelles.

4. FREIGHT SEARCHING

4.1 The Contractor will provide the requisite number of Staff for each shift (refer to Section 10) who have been trained and authorised by the Secretary of State for the Home Department and who will be designated Authorised Search Officers ("ASO") to undertake freight searching operations.

4.2 The nature of the work is outside, working in the allocation lanes, and/or designated search sheds, and/or at the tourist controls searching vehicles for illegal entrants before they board the trains destined for the U.K. The Contractor may also be directed anywhere within the UK control zone in order to search vehicles in the terminal when necessary. The ASOs will not operate elsewhere without the agreement of the Authority.

4.3 The ASO's will work in compliance with the Safe Systems of Work (SSOW) which are written by the Contractor in consultation with the Authority.

4.4 The ASO's must report to the Authority's Duty Manager ("Duty Manager") at the start of each shift. Due to the high incidence of illegal entrants encountered on and around HGVs at the Eurotunnel Terminal, the Authority has engaged the services of a Contractor to provide Body Detection Dog (BDD) services. The Duty Manager will assign the ASOs, in teams of three, to support a BDD dog handler or they will be assigned, in teams of three, to operate with detection technology e.g. CO2 probes or Heartbeat detection technology. It is essential that the Contractors Staff are comfortable working in close proximity to dogs.

4.5 The ASOs will search vehicles using the appropriate detection technology provided by the Authority e.g. CO2 probes or Heartbeat Detectors or in conjunction with/support of specialist dog teams or Border Force officers. The Contractor will visually examine the exterior of the vehicle including axles, panniers, wind breaks or storage areas. When appropriate, the interior of the trailer and drivers cab will be searched either visually and/or assisted by detection technology to ensure the vehicle is not concealing illegal entrants

4.6 Company seals on vehicles may be broken to gain access to a vehicle interior. The ASO will, after the vehicle has been declared clear, fit a seal provided by the Authority. The ASO will provide the driver of the vehicle with a written document (as supplied by the Authority) which confirms the original seal has been broken and replaced with an Authority seal. Customs seals must not be breached except by the Authority or Douanes (French Customs) Officer. The ASO must not cause any unnecessary damage to a vehicle or to its load and the Contractor must accept total responsibility for any liability arising in this respect.

4.7 The Contractor will be responsible for the secure storage of all forms, seals and any detection equipment provided by the Authority. They will also be responsible for the replacement costs of any forms, seals and detection equipment lost or damaged through

misuse. All losses or damage must be reported at the earliest opportunity to the Duty Manager. The Contractor shall ensure storage facilities are made available for inspection by the Authority.

4.8 In the event of a find of illegal entrant(s) the case is to be referred to the Duty Manager immediately upon detection; the Duty Manager will direct the appropriate Authority to undertake any further actions necessary.

4.9 When an illegal entrant is encountered the Contractor must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to Duty Manager. All of this information must be discussed with the Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

4.10 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

4.11 The Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

4.12 Using appropriate transport the illegal entrant(s) will be escorted to the holding facility or as otherwise directed by the Duty Manager. Escort instructions are contained in Sections 6 & 7 of this Specification.

4.13 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

5. TOURIST VEHICLE SEARCHES

5.1 In addition in the above, ASOs can be required to undertake searches on tourist vehicles including but not limited to coaches, cars, vans, motor homes, caravans, towed trailers etc which travel through the tourist control and they will be searched in areas agreed by the Authority.

5.2 The ASO teams will work in compliance with the Safe Systems of Work (SSOW) which are written by the Contractor.

5.3 The ASO's must report to the Duty Manager at the start of each shift. The team will be allocated the tasks of searching coaches and/or other tourist vehicles.

5.4 Searches of tourist vehicles and coaches consist of a visual examination. If new detection technology is used to undertake this task, full training will be provided by the authority.

5.5 In the event of a find of illegal entrant(s) the case is to be referred to the Duty Manager immediately.

5.6 When an illegal entrant is encountered the Contractor must complete a notice which records the full details of the detection including the vehicle and driver details, a description of the concealment of the illegal entrants and an account of the security devices deployed on the vehicle. This document must be passed to the Duty Manager. All of this information must be

discussed with the Duty Manager before the vehicle is allowed to proceed. An example form can be provided.

5.7 Each illegal entrant detected must be searched and served with a written notice (as supplied by the Authority) which advises them that they are being detained and provides the reasons for the search. The illegal entrant(s) must be searched according to the guidelines provided by the Authority covered in Section 6 of this document.

5.8 The Duty Manager must be informed of any documents or objects found during the search process. The Authority will be responsible for liaising with the PAF regarding the detection.

5.9 The illegal entrant(s) must be escorted to the holding facility or as otherwise directed by the Duty Manager. Escort instructions are set out in Sections 6 & 7 of this Specification.

5.10 When the Authority is present the Contractor will comply with the Authority's directions in regards to all operational matters.

6. ESCORTING & SEARCHING OF PERSONS

6.1 The Contractor will only provide Staff who have been authorised by the Secretary of State for the Home Department. The UK Immigration, Asylum and Nationality Act (2006) states that Authorised Search Officers are only permitted to detain persons for up to 3 hours in order to transfer custodians to another authority (Section 40(7)).

6.2 The Contractor must ensure the safe and secure custody at all times of the Detainees within its care, including in a detention vehicle used to transport detainees, as described in Section 11.2.

6.3 The Contractor must take all of the precautions necessary to prevent detainees from escaping whilst in their custody. In particular extra consideration needs to be taken when transferring Detainees into areas where they may be liable to escape.

6.4. If a Detainee attempts to escape or succeeds in escaping; the PAF and the Authority must be advised immediately and a written report on the matter should be submitted within twenty four hours of the Contractor becoming aware of the incident

6.5 The Contractor will be responsible for ensuring that Detainees and Dependent Children in their custody cause no damage to persons, property or themselves. The Contractor must carry out searches of Detainees and Dependent Children, in line with the requirements of current legislation. At the time of their collection the Contractor shall carry out rub-down searches to ensure that detainees or dependent children are not in possession of unauthorised property. Any Detainee or Dependent Children may only be searched by a member of Staff of the same gender.

6.6 Female Detainees and Dependent Children must be accompanied by a female operative when being escorted and when searched. As a result a female operative must be on duty at all times. Detailed instructions regarding the search process will be provided during the training. Detainees will be searched only by trained ASO's of the same gender

6.7 Special care should be taken of all Detainees or Dependent Children who are physically or mentally disabled.

6.8 Minors may only be transported with either their family members or a Responsible Adult if they arrive on their own. One escort officer must be of the same gender as the Detainee.

6.9 Items found during a search must be kept in secure bags noted with the owners' details and passed to the Authority or PAF officer as directed by the Duty Manager.

7. HANDOVER PROCEDURE

7.1 The Contractor must ensure at the time of collection the Detainee is the named person on the official notice.

7.2 The Contractor will be responsible for the Detainees' and Dependent Children's property, for example, money, medication, travel documents, official records and other documentation. The Contractor will account for all items and record on the appropriate paperwork whilst the Detainee is in their custody.

7.3 The Contractor will be responsible for the sealed property bags which must be signed for in the detention centre/PAF records. The Contractor must also ensure that any prescribed medication belonging to a Detainee or Dependent child is collected by the Contractor and held by them until arrival of the Detainee or Dependent child at their destination where it will be handed to the new custodian.

7.4 Where the Detainee has any visible injuries or complains of an injury the Contractor must make a note on the appropriate forms and ensure that the officers responsible for the detention area are aware of the injuries or complaints, and subsequently at the time of handover.

8. OPERATIONAL FLEXIBILITY

8.1 The Contractor will be required to be flexible when the Authority's deployment requirements change due to changes in risk to Border Security.

8.2 The Authority may require the Contractor to redeploy its Staff to other Juxtaposed ports (Calais, Coquelles and Dunkerque). Staff being re-deployed to another Port will be required to do so within one (1) hour, unless otherwise agreed with the Authority.

9. TRAINING

9.1 In order for Contractors Staff to be Authorised by the Secretary of State for the Home Department, they must undertake specific training as described below and receive a "PASS" for that training.

9.2 The Contractor will be required to deliver the elements of the training specified in section 9.5 at its own cost which will include the trainer, venue, travel and accommodation costs and any other associated costs. It is essential that comprehensive training manuals are provided by the Contractor to its Staff.

9.3 The Authority will deliver certain specialised training, in the English language, to the Contractors Staff as specified in section 9.6. The Contractor will be responsible for making the arrangements and paying for the cost of the training venue (Sports hall type facility with padded mats), accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.4 A mentoring period between the Authority and the Contractors' Staff will be mandatory. The duration and timing of the mentoring will be mutually agreed between both parties. During the mentoring period, the Authority will observe the practical application of the skills of the Contractors Staff in the live operational environment.

9.5 Training: Contractor Obligations

9.5.1 The Contractor will be expected to provide and meet the full cost of training for its Staff as specified below. The training course details and content must be reviewed by the Authority prior to commencement of the training and must be reviewed annually, or when circumstances change requiring their update.

9.5.2 The Contractor must ensure that the trainers are suitably skilled to deliver the training specified below.

9.5.3 Staff must be provided with annual refresher courses and a training plan must be maintained for each member of Staff. All training records must be made available to the Authority upon request.

9.5.4 The course should enable effective training in the following mandatory subjects as a minimum requirement;

- Health and Safety including Safe Systems of Working
- Security Awareness (International Ship & Port Facility Security (ISPS) or equivalent)
- First Aid
- Fire Safety

9.5.5 The Contractor shall permit an Independent Monitor and/or an Authority's official to observe, examine and assess the training provided.

9.6 Training: Authority Obligations

9.6.1 The following training will be provided by the Authority to the Contractors Staff. This training currently takes 7 working days. The Authority will arrange and pay for the provision of the trainer, however, the Contractor will be responsible for making the arrangements and paying for the cost of the training venue, Staff accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.2 The Authority will provide a maximum of 2 courses per year for a total of 40 (20 per course) new Staff recruited for Calais, Coquelles and Dunkerque services provision. Additional courses may be available upon request, however, in the event that more than two courses per year are required due to a high staff turnover, the Contractor will be held responsible for the costs.

9.6.3 The Authority will provide what it deems to be a suitable number of courses for annual refresher training which all Staff must undertake. The Contractor will be responsible for making the arrangements and paying for the cost of the training venue, accommodation, any translation services required, travel and subsistence costs for its Staff arising from the delivery of this training.

9.6.4 The Authority shall provide training to the Contractors Staff in the following mandatory subjects;

- Use of force, personal management skills, communication skills, searching skills, force reporting and writing, handcuffing skills, unarmed skills, baton skills, incapacitate skills, custody officer skills, vehicle skills.
- Medical implications of personal safety skills.
- The searching of persons and escorting procedures
- Managing the anxieties and stress of detention including children and vulnerable Detainees
- Safe and effective use of the appropriate detection technology
- Guidance on identifying signs of illegal entry in a vehicle.
- Guidance on how to perform the role safely whilst complying with the Authority's professional standards.
- Guidance on Safe Systems of Work (SSOW) for working with body detection dogs
- Legal framework, documentation, report writing and record keeping
- The application of UK Human Rights, children's legislation and cultural diversity and racial awareness

10. STAFF RESOURCES

10.1 The Contractor shall provide Authorised Staff 24 hours per day, 7 days per week and 52 weeks per year based on the current operating model as set out in the following table;

Time	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
Team 1: Core Requirement (Total number of agents present 24/7)	6	6	6	6	6	6	6
Team 2: Additional number of ASO present 24/7	3	3	3	3	3	3	3
Team 3: Additional number of agents present 24/7	4	4	4	4	4	4	4
Total number of agents present 24/7	13	13	13	13	13	13	13

10.2 The Contractor will be required to provide the total Number of ASO specified in the table above from the Commencement Date of the Contract. However, the Contractor must note that;

10.2.1. pursuant to Clause H3 Termination on Notice and/or Clause F6 Variation, the Authority may request the termination of one or more of the teams set out in the table at any time during the Contract Term with 3 months written notice;

10.2.2. Pursuant to Clause B4 Optional Services, the Authority may require the provision of additional teams of ASO on a short term (from 1 day up to a maximum of 3 months), medium term (3-12 months) or long term (12 months or longer) basis;

i) short term Optional Services may be requested by the Authority to provide additional teams of ASO in response to critical incidents such as severe weather disruption, industrial action at the ports or a change to security threats or risk levels. The Authority anticipates that the Contractor shall provide Staff for short term Optional Services from its existing pool of ASO on an overtime basis. The Authority shall provide, whenever possible, seven (7) days written notice to the Contractor for short term Optional Services requests, however, due to the nature of critical incidents, the Contractor may be requested to deploy within 24 hours.

ii) Medium or long term Optional Services may be requested by the Authority to provide additional teams of ASO in response to longer duration issues including increased threat and risk to border security from illegal migrant activity, long term industrial action or other factors leading to increased security risks. The Authority shall provide three (3) months written notice to the Contractor for implementation of medium term or long term Optional Services requests.

iii) The scope of the Optional Services for Coquelles is set out in the table below (Table 18 and Table 19 of the Price Schedule refers).

Table 18: Coquelles Medium Term Additional Services	
Option 17	One Team of Three (3) ASO
Option 18	Two Teams of Three (3) ASO
Option 19	Three Teams of Three (3) ASO
Option 20	Four Teams of Three (3) ASO
Table 19: Coquelles Long Term Optional Services	
Option 21	One Team of Three (3) ASO
Option 22	Two Teams of Three (3) ASO
Option 23	Three Teams of Three (3) ASO
Option 24	Four Teams of Three (3) ASO

iv) The Authority may require the Contractor to provide one or more of these Options at any time during the Contract Term and the Authority shall not limit the number of times any one of the Options shall be implemented.

v) Where the Authority implements a number of Optional Services over time, increasing the number of teams on an incremental basis, the price paid for the Optional Services shall be the rate for the Option relevant to the total number of additional teams. For example, if Option 1 is implemented, the Authority shall from that time pay the rate for Option 1. If Option 1 is then implemented again, say one month later, it shall pay the rate for both Optional Services at the rate specified in the Contract for Option 2. When the first Option 1 expires, the price paid shall then revert back to the Contract rate for Option 1.

10.3 The Contractor must ensure that it provides the specified number of ASOs on every shift and that any meal breaks taken do not impact on the continuous delivery of the Services. The Contractor must specify shift start and finish times that account for staggered coverage to maintain continuous searching.

10.4 It is essential that at any one time at least one female ASO must be available to undertake the searching and escorting of female persons detained.

10.5 It is highly desirable that the Contractors' Staff have a basic knowledge of spoken and written English and French language because they will be working collaboratively with both English and French authorities, Contractors and the travelling public.

10.6 The Contractor must inform the Authority immediately of Staff that are sick or unable to perform duties; and give assurances that they will be replaced within one hour by another ASO. In the event that the Contractor is unable to provide such a replacement, then an appropriate Service Credit of the Contract Price must be credited in its monthly invoice.

11. VEHICLES

11.1 The Contractor will be responsible for the provision, support, insurance and maintenance of vehicles to ensure the continued effectiveness of searching and escorting roles.

11.2 The Contractor will be responsible for the provision of vehicles suitable for transporting Detainees within the UK control zone. The detention vehicle must meet the following minimum specification:

Vehicle Specification

- Capacity: Driver + 8 Passengers
- Long wheel base.
- High Roof.
- Should be a van body with windows for the crew area and in the rear doors.
- A nearside opening sliding door.
- Twin crew seat in driver compartment.

Safety Features

- Electronic Stability Control
- Anti-lock Braking System
- Power Assisted Steering
- Driver and passenger airbag.
- First Aid Kit
- Dry powder fire extinguisher
- Life Hammer

Cell Compartment

- Fitted secure cell bulkhead with 4 M1 compliant forward facing seats with seat belts with release mechanism on aisle side..
- Rear Access Step.
- Rear door hinges to open to 180 degrees.

Vehicle Functionality

- Electric Front Windows.
- Remote Central Double Locking.
- Fitted Interior Mats – Driver compartment.
- Easy clean floor surface in crew and cell area for bodily fluid spillages.

11.3 The detention vehicle must be thoroughly inspected and searched for any security hazards before and after each journey.

11.4 In addition, the Contractor must provide vehicles for the transport of its Staff around the port; and to escort detained freight vehicles at the direction of the Authority.

11.5 All vehicles must be fit for the purpose and kept clean and in a roadworthy condition.

11.6 Material of a racially, sexually, or politically offensive nature must not be displayed in or on any part of a vehicle or any vehicle used in support of the contract services

11.7 The Contractor is to ensure that each vehicle must comply with the security requirements set by Eurotunnel for service vehicles operating within the port this will include a minimum requirement of suitable markings on the van and orange flashing light(s). The Contractor must seek the prior written approval of the Port Authority for the vehicles it provides and uses in the port environment.

12. MANAGEMENT SUPPORT

12.1 The Contractor will provide management support for the Operational Requirement on a 24 hour basis, seven days a week. The Contractor must have an operations manager available at all times, day and night, to receive instructions from the Authority. The operations manager must be able to converse in English.

12.2 The Contractors Staff will report to and be directed by the Authority's Duty Manager. The Authority shall also assign a Freight Searching Liaison Officer ("FSLO") to the Contractor. The FSLO will provide the ASO teams with intelligence profiles and operational support when illegal entrants have been detected.

13. HEALTH AND SAFETY COMPLIANCE

13.1 It is essential that the Contractor establishes and complies with all applicable Health and Safety regulations. The Authority reserves the right to see all available documentation relevant to the contract.

13.2 The Contractor must comply with the statutory requirements for having regard to the need to safeguard and promote the welfare of children as specified in Section 55 of the Borders, Citizenship and Immigration Act 2009. The contractor must also ensure the health and safety of Detainees, vulnerable adults, visitors and Staff.

13.3 The Contractor must maintain a Health and Safety (or local equivalent) policy statement which will be reviewed as often as appropriate, but at a minimum annually or when circumstances change requiring their update; and it must include the necessary arrangements for annual safety audits.

13.4 The Contractor will be responsible for producing risk assessments and safe systems of work.

13.5 The Contractor must maintain records assuring that all Staff have read and understood the relevant risk assessments and safe systems of work.

13.6 All accidents, injuries or dangerous occurrences must be recorded in the appropriate manner. All accidents must be investigated and forms submitted to the Authority and, where appropriate, to the Health & Safety Executive or local equivalent.

13.7 The Contractor shall ensure that suitable provision is made to satisfy first aid requirements.

13.8 If an incident occurs they should report the incident to the Authority as soon as possible and, if required, contact the Police aux Frontières ("PAF"). A written report of the incident should be supplied to the Authority within 24 hours.

13.9 In the event of an emergency, the Contractor must contact the relevant emergency service immediately eg Pompier and notify the Authority as soon as practicable.

14. EQUIPMENT & UNIFORM

14.1 The Contractor will be responsible for provision and maintenance of Equipment. The Contractor will supply each team of 3 ASO with a ladder, torches, tools for removing company seals (bolt cutters) and a working camera with compatible SD card. The Equipment must be maintained in safe working order.

14.2 The Contractor will supply each team of 3 ASO with a kit bag which will be carried at all times when searching vehicles. The kit bag must contain the Equipment specified above together with, official seals, and any forms required to be completed by the Authority. The ladder should be readily accessible within the team's vehicle.

14.3 The Authority will provide ASOs with radio communications equipment (hereinafter referred to as Property"). The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any malfunction of the Property to the Authority immediately.

14.4 The Authority will provide ASOs with fully functioning and serviced CO₂ probes or Heartbeat detection technology ("Property") for the detection of illegal entrants concealed within vehicles. The Contractor must ensure that the Property is treated with care and it should be checked for functionality upon receipt; and at the start of each shift and sporadically throughout it. The Contractor must report any malfunction of the Property to the Authority immediately.

14.5 In accordance with Clause B.15.5 of the Contract, the Contractor shall reimburse the Authority for all loss or damage to the Property.

14.6 In the event that clandestine detection technologies change, the Authority will deliver suitable training in the operation of the new equipment which the Contractors Staff will be required to operate. The new technologies shall be considered "Property" for the purposes of the Contract.

14.7 The Contractor must ensure that its Staff are equipped with the necessary and mandatory clothing to perform the task, including high visibility clothing. Consideration to inclement weather conditions should be a priority.

14.8 The Contractor must provide Staff with a uniform which has been approved by the Authority and ensures that individuals are readily identifiable; i.e. a name or number corresponding to that individual can be seen on the uniform. Their ASO status should also be visible. The Contractor must ensure that upon leaving its service that any member of Staff returns all items of uniform including identity badges and/or identity passes.

15. COMPLAINTS

15.1 The Contractor must implement procedures to investigate and respond to complaints made by the public about the Services delivery and professional conduct of Contractors Staff or allegations of theft, assault and any other allegations made by Detainees and Dependent Children. The Contractor must offer the complainant the opportunity to have the Police Aux Frontiere called and the Contractor may do so even in cases where the complainant does not wish that course of action to be taken.

15.2 Complaints are categorised as follows;

15.2.1 Minor misconduct is usually to do with isolated instances of rudeness and unprofessional conduct which are not serious enough to warrant a formal investigation and if substantiated they would not normally lead to discipline (misconduct) proceedings. Misconduct complaints are those which allege that the behaviour of any member of staff or contractor has failed to meet the Standards, for example;

- Incivility;
- Brusqueness;
- Isolated instances of bad language;
- An officer's refusal to identify themselves when asked;

Poor attitude, e.g. being unhelpful, inattentive or obstructive

15.2.2 Serious misconduct is any unprofessional behaviour which, if substantiated, should lead to misconduct proceedings. These are categorised as follows;

- Criminal Assault
- Criminal Sexual Assault
- Criminal Theft
- Criminal Fraud or Corruption
- Racism or other discrimination
- Unfair treatment (e.g. harassment)
- Other unprofessional conduct including any behaviour likely to bring the Home Office into disrepute; or which casts doubt on a person's honesty, integrity or suitability to work for the Home Office.

15.2.3 Gross misconduct is Serious Misconduct which, if substantiated on investigation or admitted, could lead to suspension or revocation of Contractors Staff Authorisation.

15.3 The Contractor must ensure that the Authority is notified of all complaints within 24 hours of its receipt.

Minor Misconduct Complaints

15.4 The Contractor shall be required to investigate and respond to Minor Misconduct complaints. If the Contractor cannot resolve a complaint about Minor Misconduct within two working days it should send an acknowledgement to the complainant within two working days and reply substantively within 15 working days of the date the complaint was received.

15.5 The Contractor will nominate a single point of contact (SPOC) who has responsibility for ensuring its compliance with the complaints procedure.

15.6 The Contractor must ensure that there is in place an auditable mechanism for receiving and recording complaints and ensure that these records are available for inspection by the Authority's Representative upon request.

15.7 The Contractor must maintain full and accurate records of any such allegations and the investigated outcomes which must be submitted at the earliest opportunity to the nominated officer for the Authority.

Serious Misconduct Complaints

15.8 The Authority shall be required to investigate all Serious Misconduct complaints; the Staff member's Authorisation may be suspended for the duration of the investigation. The Independent Monitor will be notified by the Authority of all Serious Misconduct complaints and the Independent Monitor may be appointed to investigate and report to the Secretary of State about any allegation made against an Authorised person in relation to their specified duties. The Contractor is required to co-operate fully with any complaint investigation by the Authority or the Independent Monitor ensuring that all records are made available for inspection and Staff are made available for interview when requested.

15.9 In the event the Gross/Serious Misconduct complaint is proven, the Staff member's Authorisation may be suspended and revoked at the instruction of the Authority or the Independent Monitor. That individual will no longer be able to work under this Contract and the Contractor will be required to provide a replacement Authorised Search Officer immediately to ensure that the agreed Staffing levels are maintained.

15.10 The Contractor will be liable for any costs or compensation involved in the investigation of a complaint and its outcome.

15.11 The Contractor will have to consider and respond to any recommendations stemming from 'Lessons Learned' process following a complaint. Implementation of agreed recommendations would be undertaken in line with the contract variation procedures.

15.12 Where the Contractor is found to have provided a sub standard service by not following the Authority's procedure or an investigation indicates failure to meet the required service or behaviour standard then the provisions of Clause H.2 Termination on Default of the Contract will apply.

15.13 The Authority will ensure that complaints are forwarded to the Independent Monitor as appropriate.

Staff Complaints

15.14 The Contractor shall provide a confidential complaints process for Staff to enable them to report any concerns in confidence that they may have regarding actions by other Staff or third parties.

15.15 Staff must report an act or omission by a third party which could constitute an illegal act or result in reputational damage to the Authority as soon as practical and no later than 12 hours after the event.

16. RECORDS

16.1 The Contractor shall produce and maintain clear, auditable records of the following:

- (q) Number of vehicles searched records – to be submitted at the end of each shift – to the Duty Manager
- (r) Missed or part sailings report – to be submitted at the end of each shift - to the Duty Manager
- (s) Clandestine detection proformas – to be submitted after each detection – to the Duty Manager
- (t) Shift reports – to be submitted at the end of each shift - to the Duty Manager
- (u) Weekly statistics – To be submitted at the end of each working week (for Sunday to Saturday_ - to the Authority
- (v) Performance of the Services (To be submitted at the end of each working week (for Sunday to Saturday) to the Authority
- (w) Records of persons detained and all persons searched including details of items found and subsequent actions taken – to be submitted at the end of each shift to the Duty Manager
- (x) Key Performance Indicators (Schedule 4 of the Contract refers) – to be submitted to the Authority at the end of each month.

16.2 Copies of these records must be provided to the Authority at the Contractors expense. The Contractor's records must be maintained and readily available for examination by the Authority at any time during and after the contract in accordance with Clause E9 Audit of the Contract. The Authority will provide sample forms to the Contractor.

16.3 The Authority will require the Contractor to provide relevant records within 6 hours should there be a find of illegal entrants in the UK.

16.4 The Authority will provide the Contractor with specific forms used within the operation; ASO 100 – Notice to detainee

16.5 The Contractor must ensure that the records it holds are kept in accordance with Section E, Protection of Information of the Contract.

17. PREMISES

17.1 The Contractor must make its own arrangements, at its own cost, for the provision of office or rest accommodation at the Port with Eurotunnel.

18. CONTINGENCY PLANNING

18.1 Contingency plans shall be prepared by the Contractor and approved by the Authority prior to the commencement of the Services and two copies of these plans will be held by the Authority. The contingency plans shall be reviewed and updated at least once a year or when circumstances or operational requirements change.

The contingency plans shall address the following potential incidents as a minimum:-

- Death of a Detainee, Dependent Child or any other person
- Acute illness of a Detainee, Dependent Child or any other person
- Suicide and/or attempted suicide
- Accidents, assaults, injuries or fights
- Demonstrations
- Detainees with mental/ physical health issues
- Detainees who escapes or attempt to escape
- Concerted indiscipline, barricading or hostage taking

- Key/lock compromise
- Fire, bomb, threat or other act causing disruption to the search of vehicles, search of persons or escort activity
- Industrial action by Contractor's Staff
- Adverse bad weather conditions
- Significant events disrupting travel patterns (e.g. Volcanic Ash Cloud)

SCHEDULE 2 – PRICING

Price Schedule: Summary of Annual Costs

		Total Annual Cost exc. VAT/TVA					
PORT	Operational Tiers	Initial ContractTerm				Extension Option	Further Extension Option
		Year 1	Year 2	Year 3		Year 4	Year 5
CALAIS	Team 1	Redacted				Redacted	
	Team 2						
	Team 3						
	Team 4						
DUNKERQUE	Team 1						
	Team 2						
	Team 3						
COQUELLES	Team 1						
	Team 2						
	Team 3						
	Total Annual Cost exc. VAT/TVA	8,763,384.00 €	8,921,125.00 €	9,081,705.00 €		9,245,176.00 €	9,411,589.00 €
	Total Contract Value exc. VAT/TV	26,766,214 €					

Optional Services

Pursuant to Clause C5.1, the Price for the relevant Optional Services shall be calculated by reference to the Tables 11-19 below of this Schedule 2 (Price Schedules).

Rate per Output Hour Per ASO for SHORT TERM Optional Services on a "Variable Costing" basis. SHORT TERM means for periods of 1 day to 3 months [there is an assumption that short term services would be provided by existing staff on an overtime basis]					
	Initial Contract Term			Extension Option	Further Extension Option
Monday-Friday	Year 1	Year 2	Year 3	Year 4	Year 5
Currency	€	€	€	€	€
Day Rate	Redacted				
Night Rate					
Start/Finish times: Day					
Start/Finish times: Night					
Saturday	Year 1	Year 2	Year 3	Year 4	Year 5
Currency	€	€	€	€	€
Day Rate	Redacted				
Night Rate					
Start/Finish times: Day					
Start/Finish times: Night					
Sunday	Year 1	Year 2	Year 3	Year 4	Year 5
Currency	€	€	€	€	€
Day Rate	Redacted				
Night Rate					
Start/Finish times: Day					
Start/Finish times: Night					
Bank Holiday	Year 1	Year 2	Year 3	Year 4	Year 5
Currency	€	€	€	€	€
Day Rate	Redacted				
Night Rate					
Start/Finish times: Day					
Start/Finish times: Night					
Reimbursable Expenses (please specify currency)					
Travel	Redacted				
Subsistence					
Accommodation					

Price per calendar month per Team of ASO for MEDIUM TERM Optional Services.
MEDIUM TERM means for periods of 3 to 12 months.

		Initial Contract Term			Extension Option	Further Extension Option
		Year 1	Year 2	Year 3	Year 4	Year 5
Option	Scope	€	€	€	€	€
Option 1	One Team of Three (3) ASO	Redacted				
Option 2	Two Teams of Three (3) ASO					
Option 3	Three Teams of Three (3) ASO					
Option 4	Four Teams of Three (3) ASO					

Price per calendar month per Team of ASO for LONG TERM Optional Services.
LONG TERM means for periods of 12 months or more

		Initial Contract Term			Extension Option	Further Extension Option
		Year 1	Year 2	Year 3	Year 4	Year 5
Option	Scope	€	€	€	€	€
Option 5	One Team of Three (3) ASO	Redacted				
Option 6	Two Teams of Three (3) ASO					
Option 7	Three Teams of Three (3) ASO					
Option 8	Four Teams of Three (3) ASO					

SCHEDULE 3 – MONITORING AND MANAGEMENT INFORMATION

1 Management Information Reports

1.2 The Contractor shall submit Management Information reports to the Authority in the format and frequency requested by the Authority.

1.3 Such reports shall contain the following Management Information:

- (a) Number of vehicles searched records
- (b) Missed sailings report
- (c) Clandestine detection proformas
- (d) Shift reports
- (e) Weekly statistics
- (f) Key Performance Indicators (Schedule 4 refers)
- (g) Detention of Persons records as set out below;

DAILY RECORDS

	Daily Records
1	<u>Tasking Data</u> Record of all instructions received from the Authority • Date and time received • Date and time of Detainee collection (planned and actual)
2	<u>Welfare Data</u> Time, date and details of: • Meals, refreshments • Provision of facilities for Children
3	<u>First Aid</u> Date, time, details of First Aid events (also refers to when the Pompiers are summoned)

	Daily Records
4	<u>Staff Data</u> • Details of Staff per shift (including Staff identification number, name, gender, nationality, role eg. DCO) • Shift location, time and date • Duration of Staff time spent per shift on DCO activity
5	<u>Detainee property</u> • Searching records • Records of Detainee's property and its consignment • Items in custody of Service Provider on behalf of a Detainee • Confiscated material or items (and associated arrangements for disposal/storage)
6	<u>Visits</u> (applicable to both Visitor(s) and Official Visitor(s)) • Visit details • Visitor details • Time of arrival and departure
7	<u>Training</u> Training records

Monthly Summary Report

	Monthly Summary Report
8	<u>Staff summary, including:</u> • Staff utilisation (Staff engaged in DCO activity / ASO Activity) • Staff engaged on Escort activity • Staff engaged on Holding Room activity • Staff pending certification having completed Initial training (non-operational) • Number of Staff left employment during the month
9	Training summary (numbers of Staff completing each type of required training)
10	<u>Vehicle summary, including:</u> • Number of vehicles (by vehicle type) • Hours vehicle off road (by vehicle type) • Vehicle mileages (by vehicle type) • Vehicle production (by day / night)

	Monthly Summary Report
11	<u>Summary of Holding Room workloads including:</u> • Number of Detainees • Number of light refreshments • Number of main meals • Number of occasions medical staff in attendance • Summary of length of stay
12	<u>Number of Detainee moves, of:</u> • Single males • Single females • Unaccompanied Minors • Family units (breakdown into children, males, females)
13	<u>Summary of use of force by Service area, including:</u> • With restraints • Without restraints • Passive • Emergency control and restraint • % of all Escorts, Removals, occupants
14	<u>Summary of incidents by Service area and incident type, including:</u> • Self harm incidents • Other 'Red' incidents (as defined in the relevant DSOs) • Escapes
15	<u>Summary of complaints by Service area, including:</u> • Complaints received • Complaints cleared • Substantiated complaints • Number of complaints outstanding • Number of complaints taken over by the Authority • Average time taken to deal with a complaint

Monthly Management Information Report

	Monthly Management Information Report
16	<u>Children and Unaccompanied Minors</u> Number of Children and Unaccompanied Minors in custody split into age ranges
17	<u>Detainee Data</u> • Nationality • Age • Single males • Single females • Unaccompanied Minors • Family units (breakdown into children, males, females) • Home Office reference numbers
18	<u>Volume Data (work undertaken)</u> Breakdown into job priority, single males, single females, Unaccompanied Minors, family units (breakdown family units into children, males, females): • Pick-up and destination location and time/date • Time/date and distance from pick-up to destination by journey • Transportation type (van/foot)
19	<u>Detention Data</u> • Volumes of those being Detained in Holding Rooms, • Duration of time Detainees are in location • Admission and discharge times/dates and outcome of discharge (indicative examples: granted leave to enter, transferred to PAF, released, Elected to Embark) • Refused admissions and reasons (e.g. overcapacity)
20	<u>Vehicles</u> • Total actual fuel cost • Mileage (per vehicle) • Number, type, age, ownership of vehicles • Servicing, maintenance and cleaning activity
21	<u>Medical Advice Service</u> Usage Data
22	<u>Self-harm</u> Self-harm events requiring hospital treatment

	Monthly Management Information Report
23	<u>Use of Force</u> • Number of events per Detainee (Detainee Data as per information requirement 17 in this Annex plus identification of pregnant females) • Details of person authorising use of force on pregnant females and Children or Unaccompanied Minors
24	<u>Use of Handcuffs</u> • Number of uses • Passive use • Emergency use • Duration
25	<u>Use of Leg Restraints or other authorised restraints</u> • Type of restraint • Number of uses • Duration • Details of person authorising use on any Detainee
26	<u>Notifiable Incidents</u> (ref: DSOs – incident reporting) Number and details of Notifiable Incidents by category
27	<u>Incidents</u> Number and details of incidents where a Child or Unaccompanied Minor is present (indicative examples: use of force on family member, splitting of their family)
28	<u>Complaints</u> • Date and details of complaints (including source/ nature of complaint e.g. criminal, welfare) • Details of Staff member(s) investigating complaint • How complaint has been dealt with • Details of complaints cleared / substantiated • Outcome (if known) • Conclusion date

Quarterly Benchmarking Report

	Quarterly Benchmarking Report
29	<u>Service Improvement information</u> • Breakdown of Service Improvement activities currently being undertaken • Baseline performance prior to Service Improvement activity • Current performance • % change from Baseline • % progress towards agreed performance target • Issues and future activities
30	<u>Health and Safety</u> Health and Safety records

- 1.4 The Contractor shall supply the Authority with any other information requested by the Authority in order to enable the Authority to assess the Contractor's performance against the obligations set out in this Contract.
- 1.5 The Contractor shall comply with any reasonable request by the Authority Representative to supply the Authority with any information about the Services that the Authority reasonably requires.

SCHEDULE 4 – KEY PERFORMANCE INDICATORS

During the term of the Contract the following Key Performance Indicators will apply. Where the Service Levels are not met the Service Credit Regime shown in Schedule 5 (Service Credit Regime) may apply.

KPI (1) Training & Authorisation

1.1 100% of Staff deployed for the provision of the Services are fully trained in accordance with Schedule 1 (Specifications), have received appropriate refresher training and have been Authorised by the Secretary of State for the Home Department.

KPI (2) Freight Searching Services Performance

2.1 100% of continuous freight searching services are provided 24 hours per day, 365 days per year including that;

- a) The specified number of ASO's are provided on every shift;
- b) Staff who are unexpectedly absent are replaced within one hour;
- c) Staff meal breaks do not impact on continuous delivery of the Service; and
- d) Detention of illegal migrants do not impact on the operational capability to continue searching by redeploying existing resources to maintain the search operation;

such that 100% of freight vehicles are searched prior to boarding the ferry/train.

2.2 A minimum of 95% of illegal migrants hidden in vehicles searched by the Contractors Staff shall be detected and detained in France. No more than 5% of illegal migrants hidden in vehicles searched by the Contractors Staff shall reach the UK.

KPI (3) Detention Services Performance

3.1 100% of Detention Services are available at Dunkerque 24 hours per day/365 days per year with a minimum of three (3) Detainee Custody Officers (DCO) present at all times including one female DCO in order to ensure that the Detention Holding Room remains open at all times with trained Staff.

3.2 100% no Detainee deaths, injuries or self-harm or damage to property within the Holding Room when reasonably practicable.

KPI (4) Complaints

4.1 95% of Minor Misconduct complaints are responded to within 15 working days.

4.2 100% no substantiated Serious or Gross Misconduct Complaints are found against a member of the Contractors Staff.

KPI (5) Health & Safety

5.1 100% no improvement or prohibition notices or convictions received by the Contractor for the infringement of health & safety legislation in the performance of the Services.

5.2 100% Contractors Staff compliance with;

- (a) the Contractors risk assessments and safe systems of work; and
- (b) Port Authority safety and security rules.

SCHEDULE 5 - SERVICE CREDIT REGIME

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 5, unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Excused Performance” means the situation where there is a Service Failure but the Contractor demonstrates to the Authority that such failure was directly attributable to one of the circumstances specified in clauses 8.15.

“Key Performance Indicators” means those aspects of the Service identified in Schedule 4 (Key Performance Indicators) in respect of which the Contractor’s performance of the Service will be formally assessed.

“Key Performance Period” means a calendar month starting on the first day of the month.

“Key Performance Standards” means the standards which apply in respect of the Key Performance Indicators as set out in the Key Performance Indicators Schedule.

“Service Credits” means the sum payable in respect of the failure by the Contractor to meet the Key Performance Standards.

“Service Failure” means a failure by the Contractor to deliver any part of the Services in accordance with the Key Performance Standards.

Service Credit Regime

1. The Contractor shall perform the Services in accordance with the Key Performance Standards set out in Schedule 4 (Key Performance Indicators).
2. In any Key Performance Period the Authority shall monitor the Contractor’s performance against the Key Performance Standards.
3. In relation to each Key Performance Indicator, the Authority shall assess whether the Contractor has achieved a “pass” or a “fail” in terms of the levels set as Key Performance Standards in the Key Performance Indicator Schedule for the Key Performance Indicator in question.
4. Where so prescribed in the Key Performance Indicators Schedule, for those specified Key Performance Standard(s) in respect of which the Contractor is awarded a Service Failure (as determined by the criteria set out in the Key Performance Indicators Schedule), the Authority shall be entitled to Service Credits and reduce its payment to the Contractor of the Contractor’s monthly invoice for the relevant Key Performance Period by the percentage amount stated in the Key Performance Indicators Schedule. Such payments shall be capped at 10% in any one month.

5. Where a Service Failure occurs the Contractor shall automatically credit the Authority with Service Credits in accordance with the Key Performance Indicator Schedule. Service Credits shall be shown as a deduction from the amount due from the Authority to the Contractor in the next invoice due to be issued under this Contract. If no invoice is due to be issued then the Contractor shall issue a credit note against the previous invoice and the amount for Service Credits shall be repayable by the Contractor as a debt within thirty (30) Days of issue.
6. Where Service Credits are provided as a remedy for Service Failure in respect of the relevant Services it shall be the Authority's exclusive financial remedy except where;
 - a. the aggregate number of Service Failures (whether the Service Failure relates to the same or to different parts of the Services) exceeds 3 (three) over a period of 3 (three) consecutive Months;
 - b. the failure to perform the Services in accordance with the Key Performance Standard has arisen due to theft, gross negligence, fraud, or wilful default; or
 - c. the Authority is otherwise entitled to or does terminate this Contract for the Contractors Default pursuant to Clause H2.
7. Where Service Credits are not provided as the exclusive financial remedy for a Service Failure pursuant to paragraph 6 above and the Contractor has failed to address such a Service Failure to the reasonable satisfaction of the Authority, then the Authority shall have a right to claim any actual loss or damage suffered in respect of the Service Failure and may, on written notice to the Contractor, set-off such loss or damage by withholding an amount from the Price equivalent to such loss or damage.
8. The Parties acknowledge and agree that the Authority may periodically review the Key Performance Standards (and the Contractors compliance with the Key Performance Standards) and make adjustments to them as appropriate.
9. The Contractor shall advise the Authority in writing of any events or circumstances which it claims give rise to Excused Performance and shall do so as soon as reasonably practicable after becoming aware of any such events or circumstances and, in any event, within ten (10) Working Days after the end of the relevant Key Performance Period. Failure to so advise the Authority shall prevent the Contractor from claiming that the relevant events or circumstances give rise to Excused Performance.
10. The Contractor shall be entitled to Excused Performance in respect of a Service Failure if and to the extent (and subject to the Contractor demonstrating to reasonable satisfaction of the Authority) that;

- a. The Service Failure was caused by a Force Majeure Event which the Contractor could not have foreseen, prevented or mitigated and which directly affected the Contractors ability to provide the Services in respect of the relevant Key Performance Standards, provided the Contractor has timeously and effectively implemented any applicable disaster recovery or business recovery plan that would enable the Contractor to resume providing the Services to the Key Performance Standards
 - b. The underlying cause of the Service Failure was due to an act or omission of (a) the Authority, its employees or Contractors or (b) a third party service provider (except to the extent that the Contractor has any service and/or management obligations in respect of such third party and has failed to comply with such obligations).
11. Any waiver of any Service Failure by the Authority under this clause 8 shall not be taken or construed as a waiver of any other or subsequent breach of the Contractors obligations under the Contract.
 12. Notwithstanding the cause of any Excused Performance, the Contractor shall use all reasonable endeavours and take all reasonable steps within its control to mitigate the impact to the Authority of any Services failing to achieve the Key Performance Standards.

SERVICE CREDITS

Table 1: Percentage of Monthly Invoice Deductions

Total Number of Points awarded per calendar month for Service Failures	Percentage of monthly invoice deducted (sliding scale – payments shall be capped at 10%)
0 – 20 points	0%
21 – 35 points	1%
36 – 50 points	2%
51 – 75 points	5%
76-100 points	7%
101+ points	10%

Table 2: Points to be awarded per Service Failure

Key Performance Indicator	Key Performance Standard	Service Credit
KPI (1) Training and Authorisation 100% of Staff deployed for the provision of the Services are fully trained in accordance with Schedule 1 (Specifications), have received appropriate refresher training and have been Authorised by the Secretary of State for the Home Department.	100%	10 points per Service Failure
KPI (2) Freight Searching Services Performance 2.1 100% of continuous freight searching services are provided 24 hours per day, 365 days per year 2.2 A minimum of 95% of illegal migrants hidden in vehicles searched by the Contractors Staff shall be detected and detained in France. No more than 5% of illegal migrants hidden in vehicles searched by the Contractors Staff, as evidenced by Searched Vehicle Records (SVR), shall reach the UK.	100% 95%	10 points per Service Failure per day 25 points per illegal migrant per Service Failure per calendar month during which more than 5% of illegal migrants attributed to have been hidden in vehicles searched by the Contractor as evidenced by Searched Vehicle Records reach the UK. The Service Credit for this KPI 2.2 shall be capped at 10%.
KPI (3) Detention Services Performance 3.1 100% of Detention Services are available at Dunkerque 24 hours per day/365 days per year with a	100%	10 points per Service Failure per day

minimum of three (3) Detainee Custody Officers (DCO) present at all times including one female DCO. 3.2 100% no; i) Detainee deaths, ii) injuries or self-harm; iii) damage to property within the Holding Room	100%	i) 100 points per Service Failure ii) 10 points per Service Failure iii) 10 points per Service Failure
KPI (4) Complaints 4.1 95% of Minor Misconduct complaints are responded to within 15 working days. 4.2 100% no substantiated Serious or Gross Misconduct Complaints are found against a member of the Contractors Staff.	95% 100%	5 points per Service Failure 20 points per Service Failure
KPI (5) Health & Safety 5.1 100% no improvement or prohibition notices or convictions received by the Contractor for the infringement of health & safety legislation in the performance of the Services. 5.2 Contractors Staff compliance with; (a) the Contractors risk assessments and safe systems of work; and (b) Port Authority safety and security rules.	100% 100%	50 points per Service Failure 25 points per Service Failure

SCHEDULE 6 - CHANGE CONTROL

Contract Change Note ("CCN")

CCN:	
Contract Reference Number & Title	
Variation Title	
Number of Pages	

WHEREAS the Contractor and the Authority entered into a contract dated on or around [***] for the supply of [project name] dated (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this CCN:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Aggregate value of previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (See Annexe [x] for Details)		
Revised Term		
Change in Contract Manager(s)		
Other Changes		

2. Save as amended in this CCN all other terms of the Original Contract remain in full force and effect.
3. The CCN takes effect from the date on which both Parties confirm acceptance of its terms by way of signature.

For and on behalf of [Contractor]

.....

For and on behalf of the Secretary of State for the Home Department

.....

SCHEDULE 7 - COMMERCIALLY SENSITIVE INFORMATION

- 1.1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to this Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 1.2 In this Schedule the Parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 1.3 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.
- 1.4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

CONTRACTOR'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY
COMPTE ANNUELS 2015 ET 2014 (Financial results for 2015 and 2014) (RFP Form 5)	AUGUST 2016	5 years
Certificates of performance (RFP Form 6)	AUGUST 2016	5 years
Presentation of key managers board (RFP Questionnaire 10A-1)	AUGUST 2016	5 years
Financial brief (attached to RFP Form 9 – price schedule)	AUGUST 2016	5 years

SCHEDULE 8 – AUDIT & OPEN BOOK SCHEDULE

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 8, unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Contractor Profit” means in relation to a period, the difference between the total Contract Price (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period.

“Contractor Profit Margin” means in relation to a period, the Contractor Profit for the relevant period divided by the total Contract Price over the same period and expressed as a percentage.

“Open Book Data” means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Price already paid or payable and forecast to be paid during the remainder of the Term, including details and all assumptions relating to:

- (a) operating expenditure relating to the provision of the Services including an analysis showing:
 - (i) the unit costs and quantity of consumables and bought-in services;
 - (ii) manpower resources broken down into the number and grade/role of all Contractors Staff (free of any contingency) together with a list of agreed rates against each manpower grade; and
 - (iii) a list of costs underpinning those rates for each manpower grade, being the agreed rate less the Contractor's Profit Margin;
- (b) Overheads;
- (c) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- (d) the Contractors Profit achieved over the Term and on an annual basis;
- (e) confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Contractor;
- (f) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
- (g) the actual costs profile for the Services.

“Overhead” means those amounts which are intended to recover a proportion of the Contractors or the Sub-contractor's 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 Contractors Staff.

OPEN BOOK DATA

1. The Contractor acknowledges the importance to the Authority of the Authority's need for complete transparency in the way in which the Price is calculated.
2. During the Term, and for a period of 6 years following the end of the Term, the Contractor shall:
 - (a) maintain and retain the Open Book Data; and
 - (b) disclose and allow the Authority and/or the Audit Agents access to the Open Book Data.

AUDIT

1. Except where an audit is imposed on the Authority by a Regulatory Body, the Authority may, not more than twice in any year and for a period of 12 months following the Term, conduct an audit for purposes including the following purposes:
 - (a) to verify the accuracy of the Price (and proposed or actual Variations to it in accordance with this Contract);
 - (b) to verify the Open Book Data;
 - a. to review the integrity, confidentiality and security of the Authority Data;
 - (c) to review the Contractor's compliance with the DPA, FOIA and any other Laws applicable to the Services;
 - (d) to review the Contractor's compliance with its obligations under clauses E9 and G2;
 - (e) to carry out the audit and certification of the Authority's accounts;
 - (f) to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (g) to verify the accuracy and completeness of any management information delivered or required by this Contract;
 - (h) to inspect any IT environment (or any part of it) used for or in connection with the delivery of the Services;
 - (i) to inspect the Authority's property, including the Authority's Intellectual Property, the Equipment, facilities and maintenance, for the purposes of ensuring that the Authority's assets are secure and that any register of assets is up to date; and/or
2. The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
3. Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the

Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

- (a) all information requested by the Authority within the permitted scope of the audit;
- (b) reasonable access to any sites controlled by the Contractor and to any Equipment used (whether exclusively or non-exclusively) in the performance of the Services;
- (c) access to the Contractor's IT system; and
- (d) access to Staff.

4. The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services against the applicable service levels or performance measures detailed in the Specification at a level of detail sufficient to verify compliance with the service levels.
5. The Authority shall endeavour to (but is not obliged to) provide at least 15 Working Days notice of its intention to conduct an audit.
6. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Schedule, unless the audit identifies a material Default by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
7. If an audit identifies that:
 - (a) the Contractor has failed to perform its obligations under this Contract in any material manner, the Parties shall agree and implement a remedial plan. If the Contractor's failure relates to a failure to provide any information to the Authority required by this Contract, then the remedial plan shall include a requirement for the provision of all such information;
 - (b) the Authority has overpaid the Contract Price, the Contractor shall pay to the Authority the amount overpaid within 20 Working Days. The Authority may deduct the relevant amount from the Contract Price if the Contractor fails to make this payment; and
 - (c) the Authority has underpaid any amount due as part of the Contract Price, the Authority shall pay to the Contractor the amount of the under-payment, less the cost of audit incurred by the Authority if this was due to a Default by the Contractor in relation to invoicing, within 20 Working Days.

SCHEDULE 9 - SECURITY REQUIREMENTS & POLICY

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 9, unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor System, or any ICT or data (including Authority Data) used by the Authority or the Contractor in connection with this Contract.

“Contractor Equipment” means the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub-Contractor (but not hired, leased or loaned from the Authority) for the provision of the Services;

“Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Goods and/or Services and which is specified as such in Schedule 6.

“ICT” means Information Communications Technology and includes a diverse set of technological tools and resources used to communicate, and to create, disseminate, store and manage information, including computers, the Internet, broadcasting technologies (radio and television), and telephony.

“Protectively Marked” shall have the meaning as set out in the Security Policy Framework.

“Software” means Specially Written Software, Contractor Software and Third Party Software.

“Specially Written Software” means any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract.

“Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Goods and/or Services including the software and which is specified as such in Schedule 6.

1. INTRODUCTION

This Schedule 9 covers:

- 1.1 principles of security for the Contractor System, derived from the Security Policy Framework, including without limitation principles of physical and information security;
- 1.2 wider aspects of security relating to the Services; and
- 1.3 breaches of security.

2. PRINCIPLES OF SECURITY

- 2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises and the security for the Contractor System. The Contractor also acknowledges the confidentiality of Authority Data.

- 2.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which:
- 2.2.1 is in accordance with Good Industry Practice and Law;
 - 2.2.2 complies with Security Policy Framework; and
 - 2.2.3 meets any specific security threats to the Contractor System.
- 2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (to be defined by the Authority):
- 2.3.1 loss of integrity of Authority Data;
 - 2.3.2 loss of confidentiality of Authority Data;
 - 2.3.3 unauthorised access to, use of, or interference with Authority Data by any person or organisation;
 - 2.3.4 unauthorised access to network elements, buildings, the Premises, and tools used by the Contractor in the provision of the Services;
 - 2.3.5 use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data; and
 - 2.3.6 loss of availability of Authority Data due to any failure or compromise of the Services.

3. BREACH OF SECURITY

- 3.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security.
- 3.2 Upon becoming aware of any of the circumstances referred to in paragraph 3.1, the Contractor shall immediately take all reasonable steps necessary to:
- 3.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach or threat; and
 - 3.2.2 prevent an equivalent breach in the future.
- 3.3 Such steps shall include any action or changes reasonably required by the Authority. If such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under this Contract, then the Contractor shall be entitled to refer the matter to the CCN procedure set out in Schedule 6.
- 3.4 The Contractor shall as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

APPENDIX 1 - SECURITY POLICY: SECURITY POLICY FRAMEWORK

A copy of the Security Policy Framework may be found at:

<https://www.gov.uk/government/publications/security-policy-framework>

SCHEDULE 10 – PROFESSIONAL STANDARDS

The Contractor and Staff shall comply with the following Professional Standards of Behaviour:

Integrity

The Contractor's Staff must:

- ❖ fulfil their duties and obligations responsibly;
- ❖ always act in a way that is professional and that deserves and retains the confidence of all those with whom they have dealings;
- ❖ ensure that public money and resources are used properly and efficiently;
- ❖ deal with the public fairly, efficiently, promptly, effectively and sensitively;
- ❖ keep accurate official records and handle information as openly as possible;
- ❖ comply with the law and uphold the administration of justice.

The Contractor's Staff must not:

- ❖ misuse their official position to further their private interests or those of others;
- ❖ accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise their personal judgement or integrity;
- ❖ disclose official information without authority;

Honesty

The Contractor's Staff must:

- ❖ set out the facts and relevant issues truthfully and correct any errors as soon as possible; and
- ❖ use public resources only for the authorised public purposes for which they are provided.

The Contractor's Staff must not:

- ❖ deceive or knowingly mislead the Authority's officials; or
- ❖ be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

The Contractor's Staff must:

- ❖ provide information and advice on the basis of evidence and accurately present the options and facts;

The Contractor's Staff must not:

- ❖ ignore inconvenient facts or relevant considerations when providing advice or information.

Impartiality

The Contractor's Staff must:

- ❖ perform the Services in a way that is fair, just and equitable and reflects the Authority's commitment to equality and diversity.

The Contractor's Staff must not:

- ❖ act in a way that unjustifiably favours or discriminates against particular individuals or interests.

SCHEDULE 11 – CONTRACTORS TENDER

The following documents refer;

RFP_Form 10_Technical_Questionnaire_A.pdf

RFP_Form 10_Technical_Questionnaire_B.pdf

RFP_Form 10_Technical_Questionnaire_C.pdf

RFP_Form 10_Technical_Questionnaire_D.pdf