

## SCHEDULE 7.5 - FINANCIAL REPORTS, AUDIT AND RISK

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**Annual Contract Report** means the annual contract report to be provided by the Supplier to the Director pursuant to Paragraph 1 of Part 2.

**Audit Agents means**

- (a) the Director's internal and external auditors;
- (b) the Director's statutory or regulatory auditors;
- (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- (d) HM Treasury or the Cabinet Office;
- (e) any party formally appointed by the Director to carry out audit or similar review functions;
- (f) an organisation which is a Service Recipient of the B2B Services when they are in receipt of Services under this Agreement; and
- (g) successors or assigns of any of the above.

**Contract Amendment Report** means the contract amendment report to be provided by the Supplier to the Director pursuant to Paragraph 1 of Part 2.

**Director's Appetite for Risk** has the meaning set out in the Director's Risk Management Framework Handbook.

**Director's Risk Management Framework Handbook** means the document detailing the Director's approach to the management of risk.

**Embedded Lease Report** means a report against the identification and quantification for capitalisation onto the balance sheet of an asset that is identified as a Right of Use Asset detailing the corresponding liability of any leasing arrangement including for the purposes of IFRS 16.

**Final Reconciliation Report** means the final reconciliation report to be provided by the Supplier to the Director pursuant to Paragraph 1 of Part 2.

**Financial Model** means the Contract Inception Report, the latest Annual Contract Report or the latest Contract Amendment Report, whichever has been most recently approved by the Director in accordance with Paragraph 2 of Part 2.

**Financial Reports** means the Contract Inception Report and the reports listed in the table in Paragraph 1.1 of Part 2.

**Financial Representative** means a reasonably skilled and experienced member of the Supplier's staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and Financial Reports.

**Financial Transparency Objectives** has the meaning given in Paragraph 1 of Part 1.

**IFRS 16** means the International Financial Reporting Standard from the International Accounting Standards Board providing guidance on accounting for leases.

**Material Change** means a Change which:

- (a) materially changes the profile of the Charges; or
- (b) varies the total Charges payable during the Term (as forecast in the latest Financial Model) by:
  - (i) five percent (5%) or more; or
  - (ii) one million (£1,000,000) or more.

**Onerous Contract** means a contract in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it, as defined under International Accounting Standard 37.

**Onerous Contract Report** means a report provided by the Supplier pursuant to Paragraph 3 of Part 1 to this Schedule.

**Open Book Data** means complete and accurate financial and non-financial information which is sufficient to enable the Director to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:

- (a) the Supplier's Costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;
- (b) operating expenditure relating to the provision of the Services including an analysis showing:
  - (i) the unit costs and quantity of consumables and bought-in services;
  - (ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
  - (iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and
  - (iv) Reimbursable Expenses;
- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- (e) the Supplier Profit achieved over the Term and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period.

**Quarterly Contract Report** means a report provided by the Supplier pursuant to Paragraph 3 of Part 2 to this Schedule.

**Right of Use Asset** means an asset leased to the Director or an asset of the Supplier which is predominately used for the delivery of the Services or otherwise an asset that is subject to a contract,

or part of a contract, that conveys the right to use an asset for a period of time in exchange for consideration and where the user of such assets has the right to obtain substantially all of the economic benefits from the use of the asset.

## **PART 1: FINANCIAL TRANSPARENCY OBJECTIVES AND OPEN BOOK DATA**

### **1 FINANCIAL TRANSPARENCY OBJECTIVES**

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

#### **1.1.1 Understanding the Charges**

- (a) for the Director to understand any payment sought from it by the Supplier including an analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Personnel in providing the Services and the Supplier Profit Margin;
- (b) for both Parties to be able to understand the Financial Model and Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques; and
- (c) to facilitate the use of the applicable pricing mechanisms (where relevant as referred to in Schedule 7.1 (*Charges and Invoicing*));

#### **1.1.2 Agreeing the impact of Change**

- (a) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges; and
- (b) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

#### **1.1.3 Continuous improvement**

- (a) for the Parties to challenge each other with ideas for efficiency and improvements (including through the obligations in Schedule 8.8 (*Continuous Improvement*)); and
- (b) to enable the Director to demonstrate that it is achieving value for money for the tax payer relative to current market prices,

(together the "**Financial Transparency Objectives**").

### **2 OPEN BOOK DATA**

2.1 The Supplier acknowledges the importance to the Director of the Financial Transparency Objectives and the Director's need for complete transparency in the way in which the Charges are calculated.

2.2 During the Term, and for a period of seven (7) years following the end of the Term, the Supplier shall:

2.2.1 maintain and retain the Open Book Data; and

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

### **3 ONEROUS CONTRACTS**

3.1 If the Supplier publicly designates the Agreement as an Onerous Contract (including where the Supplier has identified the Agreement as such in any published accounts or public reports and announcements), the Supplier shall promptly notify the Director of the designation and shall prepare and deliver to the Director within the timescales agreed by the Parties (an in any event, no later than two (2) months following the publication of the designation) a draft Onerous Contract Report which includes the following:

- 3.1.1 an initial root cause analysis of the issues and circumstances which may have contributed to the Agreement being designated as an Onerous Contract;
  - 3.1.2 an initial risk analysis and impact assessment on the provision of the Services as a result of the Supplier's designation of the Agreement as an Onerous Contract;
  - 3.1.3 the measures which the Supplier intends to put in place to minimise and mitigate any adverse impact on the provision on the Services; and
  - 3.1.4 details of any other options which could be put in place to remove the designation of the Agreement as an Onerous Contract and/or which could minimise and mitigate any adverse impact on the provision of the Services.
- 3.2 Following receipt of the Onerous Contract Report, the Director shall review and comment on the report as soon as reasonably practicable and the Parties shall cooperate in good faith to agree the final form of the report, which shall be submitted to the relevant governance body, such final form report to be agreed no later than one (1) month following the Director's receipt of the draft Onerous Contract Report.
- 3.3 The relevant governance body shall meet within fourteen (14) Working Days of the final Onerous Contract Report being agreed by the Parties to discuss the contents of the Report, and the Parties shall procure the attendance at the meeting of any key participants where reasonably required (including the Cabinet Office Markets and Suppliers team where the Supplier is a Strategic Supplier, representatives from any Key Sub-contractors/Monitored Suppliers, and the project's senior responsible officers (or equivalent) for each Party).
- 3.4 The Supplier acknowledges and agrees that the Onerous Contract Report is submitted to the Director and the relevant governance body on an information-only basis and the Director and relevant governance body's receipt of and comments in relation to the Onerous Contract Report shall not be deemed to be an acceptance or rejection of the Onerous Contract Report nor shall it relieve the Supplier of any liability under this Agreement. Any Changes to be agreed by the Parties pursuant to the Onerous Contract Report shall be subject to the Change Control Procedure.

## PART 2: FINANCIAL REPORTS

### 1 PROVISION OF THE FINANCIAL REPORTS

#### 1.1 The Supplier shall provide:

1.1.1 the Contract Inception Report on or before the Effective Date; and

1.1.2 during the Term the following Financial Reports to the Director, in the frequency specified below:

Financial Report	When to be provided
Contract Amendment Report	Within one (1) month of a Material Change being agreed between the Supplier and the Director
Quarterly Contract Report	Within one (1) month of the end of each Quarter
Annual Contract Report	Within one (1) month of the end of the Contract Year to which that report relates
Final Reconciliation Report	Within six (6) months after the end of the Term
Embedded Lease Report	Within one (1) month of a lease being identified as having a capital impact that needs to be quantified

1.2 The Supplier shall provide to the Director the Financial Reports in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Director to the Supplier on or before the Effective Date for the purposes of this Agreement. The Director shall be entitled to modify the template for any Financial Report by giving written notice to the Supplier, including a copy of the updated template.

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

#### 1.4 Each Financial Report shall:

1.4.1 be completed by the Supplier using reasonable skill and care;

1.4.2 incorporate and use the same defined terms as are used in this Agreement;

1.4.3 quote all monetary values in pounds sterling;

1.4.4 quote all Costs as exclusive of any VAT; and

1.4.5 quote all Costs and Charges based on current prices.

1.5 Each Annual Contract Report and the Final Reconciliation Report shall be certified by the Supplier's Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Director in advance of issue of the relevant Financial Report), acting with express authority, as:

1.5.1 being accurate and not misleading;

- 1.5.2 having been prepared in conformity with generally accepted accounting principles within the United Kingdom;
  - 1.5.3 being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and
  - 1.5.4 compliant with the requirements of Paragraph 1.6 of this Part 2.
- 1.6 The Supplier shall:
- 1.6.1 prepare each Financial Report using the same methodology as that used for the Contract Inception Report;
  - 1.6.2 ensure that each Annual Contract Report and each Contract Amendment Report (if any) is a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
  - 1.6.3 the Final Reconciliation Report is a true and fair reflection of the Costs; and
  - 1.6.4 not have any other internal financial model in relation to the Services inconsistent with the Financial Model.
- 1.7 During the Term, and for a period of eighteen (18) months following the end of the Term, the Supplier shall make available the Financial Representative at reasonable times and on reasonable notice to answer any queries that the Director may have on any of the Financial Reports and/or Open Book Data.
- 1.8 If the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:
- 1.8.1 the Costs incurred (or those forecast to be incurred) by the Supplier; and/or
  - 1.8.2 the forecast Charges for the remainder of the Term,
- the Supplier shall, as soon as practicable, notify the Director in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph shall not have the effect of amending any provisions of this Agreement.

## **2 FINANCIAL MODEL**

- 2.1 Following the delivery by the Supplier of each Annual Contract Report and any Contract Amendment Report:
- 2.1.1 the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting;
  - 2.1.2 the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the Contract Inception Report or immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the satisfaction of the Director; and
  - 2.1.3 the Director shall either within ten (10) Working Days of the meeting referred to in Paragraph 2.1.1 notify the Supplier that:
    - (a) the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any necessary modifications to the Financial Report and/or supply the Director with such supporting evidence as is required to address the Director's concerns

within ten (10) Working Days of such notification and the Director shall following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or

(b) the Director has approved the relevant Financial Report.

2.2 Following approval by the Director of the relevant Financial Report in accordance with Paragraph 2.1.3, that version shall become, with effect from the date of such approval, the current approved version of the Financial Model for the purposes of this Agreement, a version of which shall be held by both the Director and the Supplier. If there is a Dispute regarding a Financial Report, the Director's copy of the relevant Financial Report shall be authoritative.

2.3 If the Parties are unable to reach agreement on any Financial Report within thirty (30) Working Days of its receipt by the Director, the matter shall be referred for determination in accordance with Schedule 8.3 (*Dispute Resolution Procedure*).

### **3 DISCUSSION OF QUARTERLY CONTRACT REPORTS AND FINAL RECONCILIATION REPORT**

3.1 Following the delivery by the Supplier of each Quarterly Contract Report, the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting.

3.2 Following the delivery by the Supplier of the Final Reconciliation Report, the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting.

### **4 KEY SUB CONTRACTORS**

4.1 The Supplier shall, if requested by the Director, provide (or procure the provision of) a report or reports including the level of information set out in the Financial Reports in relation to the costs and expenses to be incurred by any of its Key Sub-contractors.

4.2 Without prejudice to Paragraph 1.1 of Part 3, the Supplier shall:

4.2.1 be responsible for auditing the financial models/reports of its Key Sub-contractors and for any associated costs and expenses incurred or forecast to be incurred; and

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

(a) full copies of audit reports for the Key Sub-contractors. The Director shall be entitled to rely on such audit reports; and

(b) further explanation of, and supporting information in relation to, any audit reports provided.



## **PART 3: AUDIT RIGHTS**

### **1 AUDIT RIGHTS**

- 1.1 The Director, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of eighteen (18) months thereafter, to assess compliance (whether by audit or other inspection) of the Supplier and/or its Sub-contractors (including Key Sub-contractors) of the Supplier's obligations under this Agreement or for any purpose relating to the delivery of the Services, including for the following purposes:
- 1.1.1 to verify the integrity and content of any Financial Report;
  - 1.1.2 to verify the accuracy of the Charges and any other amounts payable by the Director under this Agreement (and proposed or actual variations to such Charges and payments);
  - 1.1.3 to verify the Costs (including the amounts paid to all Sub-contractors and any third party suppliers);
  - 1.1.4 to verify the Certificate of Costs and/or the Open Book Data;
  - 1.1.5 to verify the Supplier's and each Key Sub-contractor's compliance with this Agreement and applicable Law and guidance;
  - 1.1.6 to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Director shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
  - 1.1.7 to identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Guarantor and/or any Key Sub-contractors or their ability to perform the Services;
  - 1.1.8 to obtain such information as is necessary to fulfil the Director's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
  - 1.1.9 to review any books of accounts and the internal contract management accounts kept by the Supplier in connection with this Agreement;
  - 1.1.10 to carry out the Director's internal and statutory audits and to prepare, examine and/or certify the Director's annual and interim reports and accounts;
  - 1.1.11 to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Director has used its resources;
  - 1.1.12 to verify the accuracy and completeness of any Management Information delivered or required by this Agreement;
  - 1.1.13 to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records;
  - 1.1.14 to review the Supplier's compliance with its obligations in relation to risk management and internal control activities it undertakes to ensure such compliance;
  - 1.1.15 to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
  - 1.1.16 to review the accuracy and completeness of the Registers;

- 1.1.17 to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
  - 1.1.18 to review the Supplier's quality management and quality assurance systems (including all relevant Quality Plans and any quality manuals and procedures);
  - 1.1.19 to review the Supplier's internal audit function (including all records of audits carried out in accordance with Paragraph 3);
  - 1.1.20 to review the records and data of the progress of projects, including project plans, activity status, time-recording, resource allocation, results of internal reviews of deliverables;
  - 1.1.21 to review any records created during the design development, implementation and operation of the Supplier's systems, including pre-operational environments, such as information relating to assurance and Testing;
  - 1.1.22 to review the Supplier's compliance with the Standards;
  - 1.1.23 to assist in the identification and investigation of fraud;
  - 1.1.24 to inspect the Director Assets, including the Director's IPRs, equipment and facilities, for the purposes of ensuring that the Director Assets are secure and that any register of assets is up to date;
  - 1.1.25 to review the integrity, confidentiality and security of the Director Data;
  - 1.1.26 to review the security of the Services, including in relation to the Assets used, the IT Environment or any component of it and to carry out testing, including penetration testing, pursuant to Schedule 2.4 (*Security Management*); and/or;
  - 1.1.27 to review the Supplier's compliance with its obligations under the Data Protection Legislation and in accordance with Clause 25 (*Protection of Personal Data*) and Schedule 11 (*Processing Personal Data*) or such other legislation or regulation applicable to the Services.
- 1.2 The Director may conduct a single or multiple audits of the Supplier or a Key Sub-contractor at its discretion for any reason. For the avoidance of doubt, this may include, but not be limited to circumstances where:
- 1.2.1 an audit is imposed on the Director by another third party (for example a Central Government Body or a Service Recipient);
  - 1.2.2 an audit is to be carried out by the Government Internal Audit Agency;
  - 1.2.3 where the terms of this Agreement permit or oblige a right of audit;
  - 1.2.4 where the Director has reasonable grounds for believing that the Supplier has not complied with its obligations under this Agreement.
- 1.3 Nothing in this Agreement shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

## **2 CONDUCT OF AUDITS**

- 2.1 The Director shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Director deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.

- 2.2 Subject to the Director's obligations of confidentiality, the Supplier shall on demand provide the Director and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:
- 2.2.1 all information requested by the Director within the permitted scope of the audit;
  - 2.2.2 reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - 2.2.3 access to the Supplier System;
  - 2.2.4 access to Supplier Personnel; and
  - 2.2.5 where an on-Site presence is required, a suitable working environment for the Director and/or the Audit Agents.
- 2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance with the Performance Indicators.
- 2.4 The Director shall endeavour to (but is not obliged to) provide at least fifteen (15) Working Days' notice of its intention to conduct an audit.
- 2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2 of Part 3, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Director for all the Director's reasonable costs incurred in connection with the audit.

### **3 USE OF SUPPLIER'S INTERNAL AUDIT TEAM**

- 3.1 The Supplier shall have its own established quality assurance and internal audit functions.
- 3.2 As an alternative to the Director's right pursuant to Paragraph 1.1 of this Part 3 to exercise an audit either itself or through its Audit Agents, the Director may require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1.
- 3.3 Following the receipt of a request from the Director under Paragraph 3.2 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Director has unfettered access to:
- 3.3.1 the resultant audit reports; and
  - 3.3.2 all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

### **4 RESPONSE TO AUDITS**

- 4.1 If an audit undertaken pursuant to Paragraphs 1 or 3 of this Part 3 identifies that:
- 4.1.1 the Supplier has committed a Default, the Director may (without prejudice to any rights and remedies the Director may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;
  - 4.1.2 there is an error in a Financial Report, the Supplier shall promptly rectify the error;
  - 4.1.3 the Director has overpaid any Charges, the Supplier shall pay to the Director:
    - (a) the amount overpaid;

- (b) interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of overpayment by the Director up to the date of repayment by the Supplier; and
- (c) the reasonable costs incurred by the Director in undertaking the audit,

the Director may exercise its right to deduct such amount from the Charges if it prefers; and

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

## **5 GENERAL AUDIT OBLIGATIONS**

- 5.1 The Supplier's assurance and/or internal audit functions shall identify a point of contact to engage with the Director's governance regime, including, where required, attendance at committee meetings and reporting on audit-related matters.
- 5.2 The Supplier shall support the Director's annual audit programme as applicable and may be required to undertake activities including, but not limited to:
  - 5.2.1 attending meetings to discuss strategic objectives and/or effectiveness of the Risk Management Framework and assurance monitoring;
  - 5.2.2 providing information on key Risk issues and changes to people, systems and processes;
  - 5.2.3 providing quarterly internal audit plans; and
  - 5.2.4 providing monthly updates to the status of prior audit recommendations.

## **PART 4: RISK**

### **1 STRATEGY**

- 1.1 The Supplier shall implement by the Operational Service Commencement Date a risk management framework that is consistent with the HM Treasury Orange Book and future equivalent certification standards and supports and aligns with the Director's Risk Management Framework Handbook, using taxonomy, methodologies and risk assessment matrices aligned to the Director's approach.
- 1.2 The Supplier's risk management framework shall implement the 'Three Lines of Defence' assurance model operated by the Director, as summarised in the Director's Risk Management Handbook and shall fulfil the roles and responsibilities (including suitable training, and enabling implementation of such training by the Director in relation to compliance).
- 1.3 The Supplier shall ensure its risk function is led by an individual from within the Supplier's organisation at the appropriate level of seniority to provide independent input and make decisions on resource allocation and the management of risk, such role to be designated a Key Personnel role in Schedule 9.2 (*Key Personnel*).

### **2 RISK APPETITE**

- 2.1 The Supplier shall have an established and documented appetite for risk that aligns with the Appetite for Risk set out in the Director's Risk Management Framework Handbook.

### **3 RISK MANAGEMENT AND ASSURANCE**

- 3.1 The Supplier shall implement a risk management and assurance process in accordance with Good Industry Practice. This process will include steps to ensure that the Supplier operates in compliance with the Supplier's risk management framework referred to at Paragraph 1.1 above and to evidence the systems and controls that the Supplier has in place to mitigate risk. The Supplier shall regularly report on such systems and controls, including, but not limited to, real-time delivery of Risk Data as requested by the Director from time to time, which may include open audit actions and progress on remediation, actions and timescales to address risk exposures that are outside of the documented appetite for risk.
- 3.2 The Supplier shall collect and perform analysis on the Risk Data relating to the Services and report monthly to the Director on the findings (or, if there are changes in the relevant Risk Data, more regularly). The Director may use such Risk Data reporting to assist with interpretation of the real-time data provided in accordance with Paragraph 3.1 above.
- 3.3 The Supplier's risk management and assurance process shall demonstrate that early warning indicators support the strength of the controls relating to risk management and assurance.
- 3.4 The Supplier shall, no more than two (2) months after the Operational Service Commencement Date and annually thereafter, provide the Director with evidence of assurance that its risk management framework complies with the Director's Risk Management Framework Handbook and the principles of this Schedule 7.5 (*Financial Reports, Audit and Risk*).

## **SCHEDULE 7.6 - COMPLIANCE AND FINANCIAL CRIME**

### **PART 1: COMPLIANCE**

This Schedule 7.6 (Compliance and Financial Crime) is in addition to and does not replace the obligations in Clause 5.3.1 of the Agreement with regards compliance with all applicable Law.

#### **1 FINANCIAL CONDUCT AUTHORITY (FCA)**

- 1.1 The Supplier shall ensure that the Services adhere to the FCA Handbook, including the following provisions:
  - 1.1.1 High Level Standards and Principles for Business (PRIN);
  - 1.1.2 Senior Management Arrangements, Systems and Controls Rules (SYSC);
  - 1.1.3 Code of Conduct (COCON);
  - 1.1.4 Threshold Conditions (COND);
  - 1.1.5 The Fit and Proper test for Employees and Senior Personnel (FIT);
  - 1.1.6 Statements of Principle and Code of Practice for Approved Persons (APER);
  - 1.1.7 Redress: Dispute Resolution (Complaints) (DISP);
  - 1.1.8 GEN 7;
  - 1.1.9 Training & Competence (TC); and
  - 1.1.10 Supervision Manual (SUP).
- 1.2 The Supplier shall ensure that the Services adhere to the requirements defined in the applicable elements of the FCA's Banking Code of Business Sourcebook (BCOBS) including, but not limited to BCOBS 2, 3, 4, 5 and 6 which include provisions relating to:
  - 1.2.1 communications with customers and financial promotions,;
  - 1.2.2 distance communications, including distance marketing disclosure rules and the conclusion of distance contracts;
  - 1.2.3 information to be communicated to customers and statements of account;
  - 1.2.4 post-sale requirements; and
  - 1.2.5 cancellation.
- 1.3 The Supplier shall ensure that the Services adhere to the requirements defined in the applicable elements of the FCA's Conduct of Business Sourcebook (COBS) including, but not limited to COBS 2, 4, 8/8A, 10/10A, 14, 15, 16/16A, which include provisions relating to:
  - 1.3.1 Information disclosure;
  - 1.3.2 Financial promotion;
  - 1.3.3 Distance communications;
  - 1.3.4 Client agreements;

- 1.3.5 Appropriateness and information about investments;
- 1.3.6 Cancellation;
- 1.3.7 Reporting information to clients; and
- 1.3.8 Record keeping.

## **2 PAYMENT SERVICES REGULATIONS**

- 2.1 The Supplier shall ensure that the Services adhere to the conduct elements of the Payment Services Regulations 2017, including but not limited to:
  - 2.1.1 the provision of information relating to payment transactions;
  - 2.1.2 strong customer authentication requirements;
  - 2.1.3 requirements concerning allowing access to payment account information;
  - 2.1.4 obligations and liabilities in relation to unauthorised payment transactions;
  - 2.1.5 timelines for the receipt of payments made and the application of funds for payments received; and
  - 2.1.6 incident reporting for incidents relating to payments.
- 2.2 If at any time a conflict occurs or is suspected between the Supplier's obligations under the Payment Services Regulations and its obligations under this Agreement, it must notify the Director and the Director shall determine at its sole discretion how the Supplier shall proceed.

## **3 COMPLIANCE WITH OTHER LAW AND GUIDANCE**

- 3.1 The Supplier shall also ensure compliance with applicable law and guidance, including but not limited to relevant elements of the following:
  - 3.1.1 The Financial Services and Markets Act 2000;
  - 3.1.2 The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
  - 3.1.3 The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005;
  - 3.1.4 The National Savings Regulations 2015 and the National Savings (No. 2) Regulations 2015;
  - 3.1.5 Individual Savings Account Regulations 1998;
  - 3.1.6 Consumer Rights Act 2015;
  - 3.1.7 Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;
  - 3.1.8 Consumer Protection from Unfair Trading Regulations 2008;
  - 3.1.9 The Money Laundering Regulations 2020;
  - 3.1.10 The Proceeds of Crime Act 2002;
  - 3.1.11 The Counter-Terrorism Act 2008;
  - 3.1.12 The Criminal Finances Act 2017;

- 3.1.13 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- 3.1.14 The International Tax Compliance Regulations 2015;
- 3.1.15 The Bribery Act 2010;
- 3.1.16 The Equality Act 2010;
- 3.1.17 Government Guidance relating to “Assisted Digital”;
- 3.1.18 The Government Financial Reporting Manual (FReM);
- 3.1.19 International Financial Reporting Standards (IFRS);
- 3.1.20 Central Government Transparency Guidance;
- 3.1.21 British Bankers' Association/Building Societies Association Code of Conduct for the Advertising of Interest Bearing Accounts;
- 3.1.22 The Welsh Language Act 1993;
- 3.1.23 Powers of Attorney Act 1971;
- 3.1.24 Mental Capacity Act 2005;
- 3.1.25 National Debt Act 1972;
- 3.1.26 The UK Code of Non-broadcast Advertising and Direct Promotional Marketing Code (CAP Code) and The UK Code of Broadcast Advertising Code (BCAP Code); and
- 3.1.27 ISO 22301:2012.

#### **4 COMPLIANCE MONITORING**

- 4.1 The Supplier shall ensure that the risks of non-compliance with the Standards and Law and guidance have been defined and documented for all processes related to the delivery of the Services.
- 4.2 In respect of the compliance risks defined, the Supplier shall have in place controls to mitigate those risks in accordance with the Director's Appetite for Risk. The Supplier shall review and where necessary amend such controls to ensure compliance with the Director's Appetite for Risk.
- 4.3 In the event of the compliance risk materialising, the Supplier shall mitigate any impact upon the Director, Users and Customers.
- 4.4 The Supplier shall monitor and test the effectiveness of the controls in place to mitigate the compliance risks. This will form the first line of defence within the 'Three Lines of Defence' assurance model.
- 4.5 The Supplier shall agree with the Director their proposed tests, which the Supplier shall use to monitor the effectiveness of the controls in place that mitigate the compliance risks.
- 4.6 The Supplier shall ensure that any issues or risks identified through such monitoring and testing processes are brought to the attention of the Director, within three (3) Working Days of such issues or risks being identified, and agreement gained from the Director in respect of the required remedial actions, timeframe for completion and ownership. The Supplier shall ensure that progress of remedial action is tracked and reported to the Director.



- 4.7 The Supplier shall retain a full audit trail of the monitoring and testing undertaken in relation to the compliance risks, together with the results, issues and actions arising and the progress of any remedial action.
- 4.8 In respect of any issues identified as a result of validation of first line controls testing or further substantive compliance testing, the Supplier shall develop a remedial action plan within seven (7) Working Days and complete such actions within timescales agreed by the Director.

## **5 BREACH REPORTING**

- 5.1 The Supplier shall report any breaches of the Director's Requirements and any breaches which cause an operational or systemic impact (for example those where the breach impacts a large number of Customers or is a serious breach) to the Director immediately or in any case within twenty four (24) hours of a breach and shall record and investigate such breaches and take any remedial action within timescales agreed by the Director.
- 5.2 Records of breaches shall include classification of significance of the issue in accordance with the Director's Risk Management Framework Handbook and Appetite for Risk, the root cause of the breach, where the breach originated, any financial and non-financial impact on Customers (and, where applicable, Users), the number of Customers impacted, any remedial action required or undertaken, and the remedial action owner.
- 5.3 The Supplier shall monitor the occurrence of regulatory breaches to identify trends, report such trends and actions to the Director on a monthly basis and, where the Director requires, take remedial action.
- 5.4 The Supplier shall ensure all Supplier Personnel have adequate understanding to enable them to identify regulatory breaches within their area of responsibility and the Director's wider business, and to report, investigate and address the issues (subject, where outside of the Supplier's System, to Director approval).
- 5.5 At the Director's request the Supplier shall provide a summary of all compliance, fraud, security and business continuity breach reports to each of the relevant committees, as set out in Schedule 8.1 (*Governance*) summarising all breaches occurring since the previous committee sitting. The Supplier shall, as requested by the Director, submit a report detailing all breaches that are deemed by the Director to be significant in nature to the Director's Executive Committee.

## PART 2: FINANCIAL CRIME

### 1 FRAUD RISK TOLERANCE

- 1.1 The Supplier shall have an established and documented fraud risk tolerance that aligns with the Director's fraud risk tolerance, and shall implement a risk-based approach to delivery of the Services, including in particular to Customer interactions and in accordance with the Director's Requirements. No change to this risk-based approach shall be implemented without written consent from the Director.
- 1.2 Notwithstanding the tolerance referred to under Paragraph 1.1 above, the Supplier shall at all times ensure compliance with its obligations under Schedule 2.4 (*Security Management*). For the avoidance of doubt, the Director's fraud risk tolerance arising in relation to security weaknesses, failures and/or breaches shall be zero.

### 2 FRAUD INVESTIGATION

- 2.1 The Supplier shall document its procedures for the investigation of internal and external fraud and obtain the Director's approval prior to the Operational Service Commencement Date. Any changes to such procedures shall be subject to the Director's approval through the Change Control Procedure.
- 2.2 The Supplier shall document the procedures for internal and external fraud loss recovery and submit the procedures to the Director for the Director's approval no less than three (3) months prior to the Operational Service Commencement Date.
- 2.3 The Director shall have the right to request changes to the Supplier's internal and external fraud loss recovery procedures and the Supplier shall implement such requested changes, provided that:
  - 2.3.1 the Director reasonably considers that the procedures pose a threat to the Director's reputational risk;
  - 2.3.2 such a change shall not affect the Supplier's liability obligations; and
  - 2.3.3 such a change shall not place the Supplier in breach of any relevant Law.
- 2.4 The Supplier shall consult with the Director before reporting a case to the police or other law enforcement.
- 2.5 The Supplier shall obtain the Director's prior written consent before using a third party to assist in a fraud case handling or recovery that relates to the Services.
- 2.6 The Supplier shall keep all policies and procedures regularly reviewed and updated in line with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2020 (as updated from time to time) and updates to the Director's own policies and fraud risk tolerance.

## SCHEDULE 8.1 - GOVERNANCE

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**Committee Member** means the initial persons appointed by the Director to the Committees with voting rights as set out in Annex 1 and any replacements from time to time.

**Committees** means the Executive Committee, Change Delivery Committee/Transformation Committee, Risk Management Committee, Customer and Pricing Committee and Supplier Delivery and Supplier Management Committee/Business Delivery Committee and such other Committee as the Director may constitute during the currency of the Agreement and “**Committee**” shall mean any of them or other Committee as established by the Director from time to time.

**Customer and Pricing Committee** means the body described in Paragraph 10.

**Director Governance Representative** means a Committee Member, Forum Member or representative from the Director who is required to attend a Working Group or any other Director representative as notified by the Director from time to time.

**Executive Committee** means the executive management body described in Paragraph 6.

**Forum Member** means the persons appointed by the Director to the respective Forums with voting rights as set out in Annex 2 and any replacements or additional persons as may be appointed by the Director from time to time.

**Forums** means the forum(s) established by the Director to work and report to Committees including, without limitation, the Change Forum, Enterprise Design Authority, Technical Design Authority Forum, Data and Information Forum as set out in Annex 2 and any additions or replacements from time to time.

**Risk Register** means a central register maintained by the Director which records risks to the Director in relation to the Services and/or End to End Service.

**Risk Management Committee** means the body described in Paragraph 9.

**Supplier Delivery and Supplier Management Committee** (also referred to as the Business Delivery Committee) means the body described in Paragraph 7.

**Supplier Governance Representative** means representatives from the Supplier of an appropriate level of seniority, with appropriate level of knowledge and experience (which can be more than one) and/or, where applicable, one or more of its Sub-contractors who have been invited to attend and report to a Committee (as set out in Annex 1 or as notified by the Director from time to time) and/or Forum (as set out in Annex 2 or as notified by the Director from time to time), as context dictates, in a non-voting capacity following a request from the Director and/or to form part of any Working Group.

**Transformation Committee** (also referred to as the Change Delivery Committee) means the body described in Paragraph 8.

**Working Groups** means any Working Group body established from time to time by the Committees and/or Forums with individual attendees from both the Director and the Supplier or Suppliers with a defined remit as may be created in accordance with Paragraph 5 and including from the Effective Date, the Partnership Development Working Group.

### 2 MANAGEMENT OF THE SERVICES

2.1 Both Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Agreement can be fully realised.

- 2.2 The Supplier shall ensure that its management and governance structure for the delivery of the Services has clear lines of accountability, responsibility and authority and the Supplier shall provide this information on request to the Director.
- 2.3 In the event that the Director wishes to replace any of its appointed Committee Members or Forum Members it shall be free to do so and shall notify the Supplier after the event. If the Supplier wishes to replace any of its Supplier Governance Representatives, it shall notify the Director in writing of the proposed change for agreement of the Director (such agreement not to be unreasonably withheld or delayed). Notwithstanding the foregoing it is intended that, with the exception of the Executive Committee, each Committee Member shall be able to request the attendance of a counterpart Supplier Governance Representative of equivalent seniority and expertise.

### **3 COMMITTEES ESTABLISHMENT AND STRUCTURE OF THE COMMITTEES**

- 3.1 The Committees shall be established by the Executive Committee for the purposes of this Agreement on which both the Supplier in a non-voting capacity and the Director in a voting capacity shall be represented. The role and remit of each Committee will be set out in its Terms of Reference, which will be subject to amendment from time to time by the Director (and, in the case of the Executive Committee, HM Treasury). The Supplier Governance Representatives are only required to attend if invited to do so by a Director Governance Representative and shall do so at no additional cost.
- 3.2 In relation to each Committee, the following shall be established, and shall be as set out in Annex 1 or as notified by the Director from time to time:
- 3.2.1 Committee Members;
  - 3.2.2 any Supplier Governance Representatives;
  - 3.2.3 frequency that the Committee shall meet (unless otherwise agreed between the Parties);
  - 3.2.4 location of the Committee's meetings; and
  - 3.2.5 planned start date.

#### **Committee meetings**

- 3.3 The Director shall ensure that its Committee Members and the Supplier shall ensure that its Supplier Governance Representatives shall make all reasonable efforts to attend Committee meetings at which their attendance is required and, solely in relation to each Supplier Governance Representative, when invited. If any Committee Member or Supplier Governance Representative is not able to attend a Committee meeting, that person shall use all reasonable endeavours to ensure that:
- 3.3.1 a delegate attends the relevant Committee meeting in their place who (wherever possible) is properly briefed and prepared; and
  - 3.3.2 that they are debriefed by such delegate after the Committee meeting.
- 3.4 A Committee Member shall be appointed by the Director as chairperson for each Committee as identified in Annex 1 (or as notified by the Director from time to time). The chairperson shall be responsible for:
- 3.4.1 scheduling Committee meetings;
  - 3.4.2 setting the agenda for Committee meetings and circulating to all attendees in advance of such meeting;
  - 3.4.3 chairing the Committee meetings;

- 3.4.4 monitoring the progress of any follow-up tasks and activities agreed to be carried out following Committee meetings;
  - 3.4.5 ensuring that minutes for Committee meetings are recorded and disseminated electronically to the appropriate persons and to all Committee meeting participants within seven (7) Working Days after the Committee meeting; and
  - 3.4.6 facilitating the process or procedure by which any decision agreed at any Committee meeting is given effect in the appropriate manner.
- 3.5 When invited to attend (which may be on a permanent, semi-permanent or ad hoc basis) the Supplier Governance Representative shall do so and be fully prepared to report on and contribute to the agenda and the objectives of the Committee providing all and any information that may be requested or required by the Committee in a timely manner. Where the Supplier's Sub-contractor has been invited to attend the Supplier shall procure the attendance and representation of such relevant Sub-contractor personnel as the Director may reasonably require.
- 3.6 The Parties shall ensure, as far as reasonably practicable, that all Committees shall, as soon as reasonably practicable resolve the issues and achieve the objectives placed before them. The Director shall endeavour to ensure that Committee Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this. The Supplier shall ensure that Supplier Governance Representatives are well informed and attend following invitation to enable the relevant Committee Members to make decisions.

## **4 FORUMS**

### **Establishment and structure of the Forums**

- 4.1 The Forums shall be established by a Committee for the purposes of this Agreement on which both the Supplier in a non-voting capacity and the Director in a voting capacity shall be represented. The Supplier Governance Representatives are only required to attend if invited to do so by a Director Governance Representative and shall do so at no additional cost.
- 4.2 In relation to each Forum, the following shall be established as set out in Annex 2 or as notified by the Director from time to time:
- 4.2.1 Forum Members;
  - 4.2.2 any Supplier Governance Representatives;
  - 4.2.3 frequency that the Forum shall meet (unless otherwise agreed between the Parties); and
  - 4.2.4 location of the Forum's meetings.

### **Forum meetings**

- 4.3 The Director shall ensure that its Forum Members and the Supplier shall ensure that its Supplier Governance Representatives shall make all reasonable efforts to attend Forum meetings at which their attendance is required and, solely in relation to each Supplier Governance Representative, when invited. If any Forum Member or Supplier Governance Representative is not able to attend a Forum meeting, that person shall use all reasonable endeavours to ensure that:
- 4.3.1 a delegate attends the relevant Forum meeting in their place who (wherever possible) is properly briefed and prepared; and
  - 4.3.2 that they are debriefed by such delegate after the Forum meeting.
- 4.4 A Forum Member shall be appointed by the Director as chairperson for each Forum as identified in Annex 2 (or as notified by the Director from time to time). The chairperson shall be responsible for:

- 4.4.1 ensuring the Forum delivers on its remit as set by the relevant Committee;
  - 4.4.2 scheduling Forum meetings;
  - 4.4.3 setting the agenda for Forum meetings and circulating to all attendees in advance of such meeting;
  - 4.4.4 chairing the Forum meetings;
  - 4.4.5 monitoring the progress of any follow up tasks and activities agreed to be carried out following Forum meetings;
  - 4.4.6 ensuring that minutes for Forum meetings are recorded and disseminated electronically to the appropriate persons and to all Forum meeting participants within seven (7) Working Days after the Forum meeting; and
  - 4.4.7 facilitating the process or procedure by which any decision agreed at any Forum meeting is given effect in the appropriate manner.
- 4.5 If and when invited to attend the Supplier Governance Representative shall do so and be fully prepared to report on and contribute to the agenda and the objectives of the Forum providing all and any information that may be requested or required by the Forum in a timely manner.
- 4.6 The Parties shall ensure, as far as reasonably practicable, that all Forums shall, as soon as reasonably practicable, resolve the issues and achieve the objectives placed before them. The Director shall endeavour to ensure that Forum Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this. The Supplier shall ensure that Supplier Governance Representatives are well informed and attend when invited to enable the Forum Members to make decisions.

## **5 WORKING GROUPS**

### **Establishment and structure of the Working Groups**

- 5.1 The Working Groups shall be established by the Committees and/or the Forums for the purposes of this Agreement on an ad hoc basis to monitor and oversee the completion of allocated tasks which are related to specific aspects of the delivery of the Services and the performance of the Director's role including the interface between the Supplier and any Related Third Party Suppliers. Both the Supplier and the Director will be represented at Working Groups which are likely to include representatives from Relevant Third Party Suppliers.
- 5.2 Workings Groups will not have decision-making powers but will report to and escalate all issues to the relevant Committee and/or Forum whose remit they fall under. The Supplier Governance Representative shall be obliged to attend and be fully prepared to report on and contribute to the agenda and the objectives of the Working Group providing all and any information that may be requested or required by the Working Group in a timely manner.
- 5.3 At the time of creation of any Working Group, the relevant Committee or Forum will determine the:
- 5.3.1 remit of the Working Group and required task(s) to be undertaken;
  - 5.3.2 Working Group members including required Supplier Governance Representatives;
  - 5.3.3 manner in which it will seek input from the Supplier and what is expected of the Supplier and how it will present the findings to the relevant Committee and/or Forum;
  - 5.3.4 frequency that the Working Group shall meet which shall be no less than every two (2) weeks (unless otherwise agreed between the Parties); and

5.3.5 location of the Working Group's meetings.

In the event that the Supplier wishes to replace any of its appointed Supplier Governance Representatives, it shall notify the Director in writing of the proposed change for agreement by the Director (such agreement not to be unreasonably withheld or delayed). All Working Group members shall be obliged to attend all meetings.

## **6 ROLE OF THE EXECUTIVE COMMITTEE**

6.1 The Executive Committee shall be responsible for the executive management of the Services and shall:

6.1.1 provide senior level guidance, leadership and strategy for the overall delivery of the Services;

6.1.2 be the point of escalation from all other Committees, Forums and/or and Working Groups; and

6.1.3 carry out the specific obligations attributed to it in Paragraph 6.2.

6.2 The Executive Committee shall:

6.2.1 ensure that this Agreement is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by the Director and the commercial benefit derived by the Supplier;

6.2.2 receive and review reports from all Committees and relevant Forums and review reports on technology, service and other developments that offer potential for improving the benefit that either Party is receiving, in particular value for money;

6.2.3 determine business strategy and provide guidance on policy matters which may impact on the Implementation of the Services;

6.2.4 provide guidance and authorisation to the Transformation Committee on relevant Changes; and

6.2.5 deal with the prioritisation of resources and the appointment of Committees, Forums and/or Working Groups on behalf of the Parties.

## **7 ROLE OF THE SUPPLIER DELIVERY AND SUPPLIER MANAGEMENT COMMITTEE**

7.1 The Supplier Delivery and Supplier Management Committee shall:

7.1.1 be accountable to the Executive Committee for comprehensive oversight for the senior management of the relevant Forums and/or Working Groups under its remit ("**Supplier Delivery and Supplier Management Committee Delegates**");

7.1.2 be responsible for the effective delivery of services and report to the Executive Committee on the status of the partnership of the Supplier and Relevant Third Party Suppliers, informed by the detailed monitoring of expenditure, service management, operational performance, co-ordination of individual projects and integration issues;

7.1.3 receive reports from the relevant Supplier Delivery and Supplier Management Committee Delegates on matters such as issues relating to delivery of existing Services, and performance against Performance Indicators, progress against the Implementation Plan and possible future developments;

- 7.1.4 to the extent that a significant matter cannot be agreed by the Supplier Delivery and Supplier Management Committee, escalate to the Executive Committee significant issues requiring decision and resolution by the Executive Committee;
- 7.1.5 drive best practice in customer service, IT and operational performance and efficiency, taking into account external trends, benchmarking and research;
- 7.1.6 develop operational/supplier relationship and develop and propose the relationship development strategy and ensure the implementation of the same;
- 7.1.7 provide recommendations, seek guidance and authorisation from the Executive Committee as required; and
- 7.1.8 deal with the prioritisation of resources and the creation and appointment of relevant Forums and/or Working Groups within their role remit on behalf of the Parties.

## 8 ROLE OF THE TRANSFORMATION COMMITTEE

### 8.1 The Transformation Committee shall:

- 8.1.1 be accountable to the Executive Committee for comprehensive oversight for the senior management of the Change Forum, Technical Design Authority Forum, Data and Information Forum, Enterprise Design Authority any other relevant Forums and/or Working Groups under its remit ("**Transformation Committee Delegates**");
- 8.1.2 receive reports from the Transformation Committee Delegates on matters such as issues relating to change, dependencies across change projects and programmes, financial expenditure, design, technical architecture, new technology, delivery of existing Services and progress against the Implementation Plan;
- 8.1.3 review and report to the Executive Committee on:
  - (a) design (including technical design) requirements related to the Services;
  - (b) to the extent that a significant matter cannot be agreed by the Transformation Committee, significant issues requiring decision and resolution by the Executive Committee, including Changes which will have a significant impact on the Services;
  - (c) progress against the Implementation Plan; and
  - (d) any integration issues and on progress against the Implementation Plan or any Change;
- 8.1.4 provide recommendations, seek guidance and authorisation from the Executive Committee as required;
- 8.1.5 assure the coherence and consistency of the systems architecture for the Supplier Solution;
- 8.1.6 assure that the technical architecture of the Supplier Solution is aligned to the Service Requirements and has sufficient flexibility to cope with future requirements of the Director; and
- 8.1.7 subject to appropriate escalation to the Executive Committee in accordance with Paragraph 8.1.3(b), act as and on behalf of the Director, as client, pursuant to the Change Control Procedure in relation to any Change (including, without limitation):
  - (a) assess the impact and, if necessary, approve or reject all Change Proposals; and



- (b) analyse and record the impact of all Changes, specifically whether the Change:
  - (i) has an impact on other areas or aspects of this Agreement, any Relevant Third Party Suppliers' service agreements with the Director and/or documentation relating to the Services;
  - (ii) has an impact on the ability of the Director to meet its agreed business needs within agreed time-scales;
  - (iii) will raise any risks or issues relating to the proposed Change; and
  - (iv) will provide value for money in consideration of any changes to the Financial Model, future Charges and/or Performance Indicators and Target Performance Levels.

## 9 ROLE OF THE RISK MANAGEMENT COMMITTEE

9.1 The Risk Management Committee shall identify and manage risks for the Director relating to or associated with the performance of the Services.

9.2 The Risk Management Committee shall:

- 9.2.1 be accountable to the Executive Committee for comprehensive oversight for the senior management of the Compliance Working Group, Data Protection Working Group, Information Security Working Group, Assurance Working Group, Cyber Security Working Group, Business Continuity Working Group and any other relevant Forums and/or Working Groups under its remit ("**Risk Management Committee Delegates**");
- 9.2.2 provide independent review over the risks arising from the Director's business activity (including activities conducted across its supply chain), and associated risk management to ensure that the Director and its suppliers operate within the Director's defined risk appetite;
- 9.2.3 receive reports from the relevant Risk Management Committee Delegates on matters such as issues relating to the Risk Register, cyber security, information security, business continuity, compliance and data protection;
- 9.2.4 receive reports from the external and internal auditors with respect to risk issues;
- 9.2.5 make binding decisions concerning matters under its remit;
- 9.2.6 provide assurance to the Executive Committee that risks are being effectively managed across the Services, including (without limitation) reporting the major risks as identified by the Director or Relevant Third Party Suppliers to the Executive Committee on a monthly basis;
- 9.2.7 to the extent that a significant matter cannot be agreed by the Risk Management Committee, identify the risks to be reported to the Executive Committee or the Audit & Risk Committee via the regular risk reports;
- 9.2.8 subject to the Change Control Procedure, accept or reject new risks proposed for inclusion in the Risk Register;
- 9.2.9 ratify or refuse requests to close risks on the Risk Register; and
- 9.2.10 identify risks relating to or arising out of the performance of the Services and provisional owners of these risks.

## 10 ROLE OF THE CUSTOMER AND PRICING COMMITTEE

- 10.1 The Customer and Pricing Committee shall:
- 10.1.1 be accountable to the Executive Committee for comprehensive oversight for the senior management of the relevant Forums and/or Working Groups under its remit (“**Customer and Pricing Committee Delegates**”);
  - 10.1.2 evaluate, approve and assure the Director’s Customer strategy (including Customer experience and satisfaction), ongoing design and development of services and products and use of marketing spend;
  - 10.1.3 oversee the delivery of Services and products that are predominantly digitally-led;
  - 10.1.4 make recommendations on management of targets, approval of forecasts for and delivery of Net Financing/Value Indicators;
  - 10.1.5 have oversight and ownership of the pricing model and ensuring regulatory compliance in respect of the Retail Banking Conduct of Business Rules and the FCA Shadow Regime;
  - 10.1.6 to the extent that a significant matter cannot be agreed by the Customer and Pricing Committee, escalate to the Executive Committee significant issues requiring decision and resolution by the Executive Committee; and
  - 10.1.7 provide recommendations, seek guidance and authorisation from the Executive Committee as required.

## **11 CONTRACT MANAGEMENT MECHANISMS**

- 11.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Agreement.
- 11.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Director, processes for:
- 11.2.1 the identification and management of risks;
  - 11.2.2 the identification and management of issues; and
  - 11.2.3 monitoring and controlling project plans.
- 11.3 The Risk Register shall be updated by the Supplier and submitted for review by the Risk Management Committee.

## **12 ANNUAL REVIEW**

- 12.1 An annual review meeting shall be held throughout the Term on a date to be agreed between the Parties.
- 12.2 The meetings shall be attended by the Account Director of the Supplier and the Head of Supply Chain and Procurement of the Director and any other persons considered by the Director necessary for the review.

## ANNEX 1: REPRESENTATION AND STRUCTURE OF COMMITTEES

### Transformation Committee

Committee Members of Transformation Committee	COO Chief Operating Officer (Chair) Assistant Director, Change Delivery (Deputy Chair) Finance Director Risk Director Head of EPO
Supplier Governance Representatives non-voting attendees of Transformation Committee	Account Director Commercial Manager Transformation Director (Implementation) Senior Programme Manager (Implementation) RAID Lead (Implementation) Insight & Collaboration Director (from OSCD) Compliance, Risk & Fraud Director (from OSCD)
Start date for Transformation Committee meetings	From Effective Date
Frequency of Transformation Committee meetings	Every month/twelve (12) times a year
Location of Transformation Committee meetings	To be agreed on a case by case basis

### Risk Management Committee

Committee Members of Risk Management Committee	Risk Director (Chair) Chief Executive People and Strategy Director Finance Director Retail Director Head of Risk
Supplier Governance Representatives for Risk Management Committee	Account Director Commercial Manager Transformation Director (Implementation) Senior Programme Manager (Implementation) RAID Lead (Implementation) Compliance, Risk & Fraud Director (from OSCD)
Start date for Risk Management Committee meetings	From Effective Date
Frequency of Risk Management Committee meetings	Every three (3) months/four (4) times a year
Location of Risk Management Committee meetings	To be agreed on a case by case basis

### Supplier Delivery and Supplier Management Committee

Committee Members of Supplier Delivery and Supplier Management Committee	Chief Operating Officer (Chair) Assistant Director, Customer Operations (Deputy Chair) Retail Director Finance Director Head of Supply Chain Management
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Supplier Governance Representatives for Supplier Delivery and Supplier Management Committee	Account Director Transformation Director (Implementation) Insight & Collaboration Director (from OSCD) Operations Director (from OSCD) Commercial Manager IT Service Manager (from OSCD) Training & Quality Manager (from OSCD)
Start date for Supplier Delivery and Supplier Management Committee meetings	From Effective Date
Frequency of Supplier Delivery and Supplier Management Committee meetings	Every month/twelve (12) times a year
Location of Supplier Delivery and Supplier Management Committee meetings	To be agreed on a case by case basis

### Customer and Pricing Committee

Committee Members of Customer and Pricing Committee	Chief Executive Officer (Chair) Retail Engagement Strategy Director Customer Strategy & Proposition Development Director Service Design & Development Director Finance Director Risk Director Communications Director
Supplier Governance Representatives for Customer and Pricing Committee	Account Director Commercial Manager Finance Manager Transformation Director (Implementation) Insight & Collaboration Director (from OSCD) Operations Director (from OSCD) Compliance, Risk & Fraud Director (from OSCD)
Start date for Customer and Pricing Committee meetings	From Effective Date
Frequency of Customer and Pricing Committee meetings	Every month/twelve (12) times a year
Location of Customer and Pricing Committee meetings	To be agreed on a case by case basis

## ANNEX 2: REPRESENTATION AND STRUCTURE OF FORUMS

### Change Forum

Forum Members of Change Forum	[ ] [Chairperson] ** Change Board information to be confirmed post Effective Date as the Chair, Composition, Start Date and Frequency are to be confirmed by the Director.
Supplier Governance Representatives of Change Forum	Solution Architect Commercial Manager Senior Programme Manager (Implementation) Operations Director (from OSCD) Insight & Collaboration Director (from OSCD) Change Manager (from OSCD)
Start date for Change Forum meetings	TBC
Frequency of Change Forum meetings	TBC
Location of Change Forum meetings	To be agreed on a case by case basis

### Data and Information Forum

Forum Members of Data and Information Forum	NS&I Chief Operating Officer (Chairperson) Assistant Director – IT Head of Data & Planning Head of Business Insight Head of Compliance Advice & Delivery NS&I Data Architect
Supplier Governance Representatives of Data and Information Forum	Solution Architect Data Architect (Implementation) Data Manager (from OSCD) Change Manager (from OSCD) Insight & Collaboration Director (from OSCD) Data Protection Business Partner (from OSCD)
Start date for Data and Information Forum meetings	From Effective Date
Frequency of Data and Information Forum meetings	Every month/twelve (12) times a year
Location of Data and Information Forum meetings	To be agreed on a case by case basis

### Enterprise Design Authority

Forum Members of Enterprise Design Authority	NS&I Chief Operating Officer (Chairperson) Assistant Director, Change Delivery (Deputy Chair) Head of Strategy Assistant Director, Information Technology Assistant Director, Rainbow Programme Assistant Director, Retail Head of Operations Assurance
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Supplier Governance Representative of Enterprise Design Authority	Solution Architect Security Architect Data Architect (Implementation) Operations Director (from OSCD) Data Manager (from OSCD)
Start date for Enterprise Design Authority meetings	From Effective Date
Frequency of Enterprise Design Authority meetings	Every month/twelve (12) times a year
Location of Enterprise Design Authority meetings	To be agreed on a case by case basis

### Technical Design Authority Forum

Forum Members of Technical Design Authority Forum	Head of Digital Enterprise Architecture (Deputy Chair) Head of Operational Change and Incident Management Lead Technical Architect Lead Data Architect Lead Security Architect
Supplier Governance Representative of Technical Design Authority Forum	Solution Architect Security Architect Data Architect (Implementation)
Start date for Technical Design Authority Forum meetings	From Effective Date
Frequency of Technical Design Authority Forum meetings	Every month/twelve (12) times a year
Location of Technical Design Authority Forum meetings	To be agreed on a case by case basis

## SCHEDULE 8.2 - CHANGE CONTROL PROCEDURE

### 1 DEFINITIONS

1.1 In this Schedule 8.2 (*Change Control Procedure*), the following definitions shall apply:

**Agreement Amendment** means the documented variation to the agreement pursuant to Paragraph 12 which shall be substantially in the form of Annex 4.

**Change Authorisation Note** means the note issued by the Director pursuant to Paragraph 11 which shall be substantially in the form of Annex 3.

**Change Communication** means any Change Proposal, Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule.

**Change Programme** means the strategic change programme proposed by the Director and separately the Supplier pursuant to Paragraph 2.6 as to possible Changes that could be considered in the forthcoming year.

**Change Proposal** means a written request for a Change which shall be substantially in the form of Annex 1.

**Change Request** means a written request from the Director for a Change which shall be substantially in the form of Annex 2 or as may be amended by the Director as it determines.

**Definition Phase** means the process of a Supplier(s) review of a Change Proposal, working with any Relevant Third Party Supplier (and, if required, the Director) to assess and develop the Change Proposal into a detailed statement of requirements and draft Change Request to include an assessment and outline of the potential impact on them (or, if no impact, confirming as such), and an Impact Assessment Estimate, and being the period during which the Supplier shall respond with the details required in accordance with Paragraph 8.

**Director Change Manager** means the person appointed to that position by the Director from time to time and notified in writing to the Supplier or, if no person is notified, the Director Representative.

**Duplication** means a duplication of Services Charges in this Agreement and any amounts payable by the Director to the Relevant Third Party Supplier under any other service agreement for Related Services in relation to the End to End Service.

**Duplication Charge Change** means a Change related to a Duplication to be processed in accordance with Paragraph 19.

**Fast-track Change** means any Change which the Director decides to expedite in accordance with Paragraph 14.

**Impact Assessment** means an assessment of a Change Request in accordance with Paragraph 10.

**Impact Assessment Estimate** has the meaning given in Paragraph 10.

**Lead Supplier** has the meaning given in Paragraph 5.1.6.

**Multi-Supplier Change** means a Change identified through the Definition Phase as having an impact on the Supplier and the Relevant Third Party Suppliers.

**Receiving Party** means the Party which receives a proposed Change.

**Single Supplier Change** means a Change identified through the Definition Phase as having an impact on one Supplier only (with no impact on the Relevant Third Party Suppliers).

**Small Change** means a Change pursuant to Paragraph 3.1.2.

**Supplier Change Manager** means the person appointed to that position by the Supplier in accordance with Schedule 9.2 (*Key Personnel*) from time to time and notified in writing to the Director or, if no person is notified, the Supplier Representative.

## **2 GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE**

- 2.1 This Schedule sets out the procedure for dealing with Changes to the Services and the Agreement.
- 2.2 The Parties acknowledge that, due to the nature of the disaggregated service model adopted by the Director, Changes proposed in respect of the Related Services (whether by a Relevant Third Party Supplier or the Director) may impact on the Supplier and its provision of the Services under this Agreement, and vice versa. As such, this Schedule sets out a holistic process for dealing with Change across the End to End Services model and requires an amount of communication and collaboration between the Suppliers and the Director, the principles of which are more particularly described in the Collaboration Agreement.
- 2.3 The Supplier shall use appropriate formal project, programme, business analysis and development methodologies that align to Good Industry Practice and shall have regard to the Director's project methodologies in managing all aspects of the Change requirements. Where appropriate the Supplier shall incorporate the Director's processes into the Supplier procedures to ensure a seamless implementation of Changes. The Supplier shall ensure that all tools, Software and systems are compatible with the Director's systems. The Supplier shall train all relevant staff in the use of the Director's methodologies and shall ensure that the Director has full electronic and open access to all the Supplier's activity, documentation, information and data relating the preparation and implementation of Changes and their associated Testing.
- 2.4 The Supplier shall ensure that it regularly reports on the progress of Changes, at such frequency as the Director requires. The Supplier shall ensure that these reports include all relevant and sufficiently detailed information in terms of progress to date, activity underway and completed against planned activity, expenditure and costs incurred to date, risks, issues and dependencies, including engagement with Relevant Third Party Suppliers to enable the Director to comprehend the status of each Change.
- 2.5 The Supplier shall provide and maintain plans for the development and implementation of Changes. The Supplier shall discuss these plans and associated progress with the Director and/or the Relevant Third Party Supplier(s) at regular intervals and at such frequency as the Director requires.
- 2.6 The Director operates an annual Change Programme planning review cycle, the purpose of which is to outline the planned Changes, scope, priorities and scheduling. The Supplier will be required to provide input to the Change Programme including the provision of data and supporting information as the Director may require to make the necessary planning and budgetary decisions on whether to proceed with proposed Changes. The Supplier acknowledges that scope, priorities and scheduling of Changes shall ultimately be set by the Director. The Change Programme will be maintained by the Director and reviewed quarterly or at such other times as the Director considers appropriate. The Director reserves the right in its absolute discretion to amend and/or update the Change Programme.

## **3 TYPE OF CHANGE**

- 3.1 In this Agreement there are the following types of Changes:

- 3.1.1 **DevOps Change** – which shall mean:

- (a) a Change, being a configuration, solution or functional change which, in the majority of cases, is identified in the Continuous Improvement Plan but which do not require a change to the Charges or terms of this Agreement; but



- (b) shall not include Incident or Problem resolution or other actions, including responding to Notifiable Defaults, required to remedy shortcomings in Service delivery or otherwise relate to technology refresh which remains an obligation on the Supplier;
- (c) may include Single Supplier or Multi-Supplier Changes.

**3.1.2 Small Changes** – which shall mean:

- (a) proposed Changes to the Services with a lifetime value below the delegated authority level of the Director Change Manager which, as at the date of this Agreement is £500,000; or
- (b) Changes which would constitute a very small change requiring minimum resource, having minimum or no impact on the Director's customers or End to End Services; and
- (c) Changes which do not constitute a Multi-Supplier Change.

**3.1.3 Single Supplier Change** – which shall mean:

- (a) a Change requiring a programme of work to implement the Change which is not otherwise a Consultancy Change; and
- (b) on the face of it clearly only affects the Supplier.

**3.1.4 A Multi-Supplier Change** – which shall mean:

- (a) a Change requiring a programme of work to implement the Change which is not otherwise a Consultancy Change; and
- (b) has the potential to impact on, or require input from the Supplier and Relevant Third Party Suppliers.

For the avoidance of doubt a Change to on-board a Relevant Third Party Supplier will be deemed a Multi-Supplier Change.

**3.1.5 Consultancy Change** – which shall mean:

- (a) a requirement for consultancy service by the Director which will not result in a change to the Agreement.

3.2 Wherever feasible, it is the intention of the Director to use the DevOps Change as the default. However, in the absence of agreement by the Parties as to the type of Change, then the Director shall, acting reasonably, classify the type of Change which shall be applicable.

3.3 All:

3.3.1 DevOps Changes shall be governed in accordance with Paragraph 4 of this Schedule;

3.3.2 other categories of Change shall be governed in accordance with Paragraphs 5 to 14.

## **4 DEVOPS CHANGE**

4.1 The Director shall (at its absolute discretion) determine whether a Change shall be dealt with as a DevOps Change and the Parties shall then deal with the Change in accordance with this Paragraph 4.

4.2 The Parties agree that all DevOps Changes will be delivered and implemented using the Supplier's Development Pool at no additional cost to the Director save as specified in Paragraph 4.4.1.

4.3 In respect of DevOps Changes:

4.3.1 The Supplier will:

- (a) maintain the Development Pool at all times in accordance with its obligations pursuant to Schedule 2.1 (*Service Description*) and Schedule 4.1 (*Supplier Solution*); and
- (b) work with the Director to agree, as part of the Operations Manual developed pursuant to the Collaboration Agreement, operational ways of working for the Development Pool including managing the impact or involvement of Relevant Third Party Suppliers but always subject to the terms and conditions of this Agreement and its applicable schedules including but not limited to:
  - (i) Schedule 2.1 (*Service Description*);
  - (ii) Schedule 2.2 (*Performance Levels*);
  - (iii) Schedule 4.1 (*Supplier Solution*);
  - (iv) Schedule 6.2 (*Testing Procedures*); and
  - (v) Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*).

4.3.2 The Director will:

- (a) own, manage and prioritise the Changes, primarily using, but not limited to, the Continuous Improvement Plan; and
- (b) schedule the delivery of the Changes to be delivered using the Development Pool, where possible by agreeing a schedule of delivery with the Supplier on a rolling three (3) monthly basis taking into account:
  - (i) the views of the Supplier; and
  - (ii) the capacity of the Development Pool as based on the Service Description,provided that the scheduling of DevOps Changes shall remain at the sole discretion of the Director including the right to amend the rolling three (3) month development plan upon reasonable notice.

4.4 Where the capacity of the Development Pool is:

4.4.1 insufficient to deliver the extent of Changes required by the Director to be delivered as DevOps Changes (as determined by reference to the requirements for the Development Pool set out in Schedule 2.1 (*Service Description*)), the Director may issue a Change Request requiring an increase in the size of the Development Pool, pursuant to the remaining terms of this Schedule save that:

- (a) such a change increasing the size will be deemed to be a Single Supplier Change;
- (b) the cost of such a change shall be determined by reference to Schedule 7.1 (*Charges and Invoicing*);
- (c) Paragraph 10 (*Impact Assessment*) will be deemed not applicable save as expressly required by the Director; and

- (d) the provisions of Paragraph 14 (*Fast-Track Changes*) will be deemed to apply unless expressly agreed by the Director; and/or

4.4.2 below the expected output (as determined by reference to the requirements for the Development Pool set out in Schedule 2.1 (*Service Description*)), the Director may require the Development Pool to undertake other activities (subject to skill sets and experience) as it may reasonably require to resolve the under utilisation.

4.5 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Development Pool and shall provide a copy to the Director on request.

4.6 The size, scope and resource of the Development Pool shall be reviewed:

4.6.1 prior to the third Operational Services Commencement Date as set out in the Implementation Plan; and

4.6.2 following the review under Paragraph 4.6.1 at least two (2) months prior to the Director's financial year end in each Contract Year.

4.7 The review pursuant to Paragraph 4.6 shall take into account the performance of the Development Pool, the Continuous Improvement Plan, anticipated Changes, the records pursuant to Paragraph 4.5 and utilisation of the Development Pool in the previous twelve (12) months.

4.8 Subject to the output of the review pursuant to Paragraphs 4.6 and 4.7, the parties shall agree any changes to the size, scope and resource making up the Development Pool. Any change to the Development Pool shall be dealt with as a Change Request pursuant to the remaining terms of this Schedule save that:

- (a) such a change increasing the size will be deemed to be a Single Supplier Change;
- (b) the cost of such a change shall be determined by reference to Schedule 7.1 (*Charges and Invoicing*);
- (c) Paragraph 10 (*Impact Assessment*) will be deemed not applicable save as expressly required by the Director; and
- (d) the provisions of Paragraph 14 (*Fast-Track Changes*) will be deemed to apply unless expressly agreed by the Director.

## **5 PROCESS FOR CHANGE**

5.1 Unless the Director (at its absolute discretion) determines otherwise (in which case Paragraph 15 would apply), the Parties shall deal with Change as follows:

5.1.1 either Party may request a Change which they shall initiate by issuing a Change Proposal in accordance with Paragraph 7;

5.1.2 if requested by the Director, the Supplier and, where the change is a Multi-Supplier Change, Relevant Third Party Suppliers (as appropriate) shall undertake a Definition Phase in accordance with Paragraph 8 in order to assess and develop the Change Proposal into a draft Change Request;

5.1.3 at the end of the Definition Phase the Supplier(s) will confirm either that:

- (a) the Change Request will have no potential impact on its Services and the Supplier has no requirements or dependencies that should be incorporated or reflected in the development or delivery of the subsequent Change and therefore the Supplier does not need to complete an Impact Assessment; or

- (b) the proposed Change has a potential impact on that Supplier and/or its Services and it will need to complete an Impact Assessment in response to the Change Request;
- 5.1.4 at the Director's discretion, the Director may issue the Change Request in accordance with Paragraph 9 following the completion of, or without, a Definition Phase. Such Change Request shall be refined from the draft as the Director sees fit, taking into reasonable account the outputs of the Definition Phase, if any;
- 5.1.5 unless otherwise required by the Director, the Supplier(s) that have confirmed continued involvement in accordance with Paragraph 5.1.3(b) shall assess and document the potential impact of the proposed Change in accordance with Paragraph 10, and produce an Impact Assessment;
- 5.1.6 where the Change is identified as being a Multi-Supplier Change, the Suppliers and relevant Third Party Suppliers Impact Assessment shall then be collated and coordinated by the Director for the Director's review. The Director reserves the right to appoint a Supplier to be a lead supplier ("**Lead Supplier**") for the purposes of a Multi-Supplier Change;
- 5.1.7 the Director shall have the right to request amendments to the Impact Assessment, approve it or reject it in the manner set out in Paragraph 11;
- 5.1.8 the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 13; and
- 5.1.9 save as otherwise provided in this Schedule, no proposed Change shall be progressed or implemented by the Supplier(s) until a Change Authorisation Note has been issued and signed by the Director in accordance with Paragraph 11.2.
- 5.2 To the extent that any Change requires testing and/or a programme for implementation, then the Parties shall follow the procedures set out in Schedule 6.2 (*Testing Procedures*), and, where appropriate, the Change Authorisation Note relating to such a Change shall specify Milestones and Milestone Date(s) in respect of such Change for the purposes of such procedures.
- 5.3 Until a Change Authorisation Note has been signed and issued by the Director in accordance with Paragraph 11.2, then:
  - 5.3.1 unless the Director expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Services in accordance with the existing terms of this Agreement as if the proposed Change did not apply; and
  - 5.3.2 any discussions, negotiations or other communications which may take place between the Director and the Supplier in connection with any proposed Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Agreement.
- 5.4 Subject to Paragraph 11.1, the Director shall issue the Change Authorisation Note to the Supplier and any impacted Relevant Third Party Supplier on the same date (redacted as required for the Relevant Third Party Suppliers to maintain Commercially Sensitive Information) which shall include a binding timescale for the Supplier(s) to implement the Change. Unless the Director rejects a Change (in accordance with Paragraph 11), the Supplier shall complete the Change within the timescale specified for completion and promptly notify the Director of completion.

## 6 COSTS

- 6.1 Save in respect of DevOps Changes pursuant to Paragraph 4 and subject to Paragraph 6.3:
  - 6.1.1 the costs of preparing a draft Change Proposal by a Supplier shall be borne by the Supplier;

- 6.1.2 the costs of supporting input in the Definition Phase shall be borne by the respective Parties without recourse to the Director; and
- 6.1.3 the costs of preparing each Impact Assessment up to the agreed Impact Assessment Estimate shall be borne by the Director provided that the Director shall not be required to pay any such costs if:
- (a) such costs are below £25,000;
  - (b) the Supplier is able to undertake the Impact Assessment by using resources already deployed in the provision of the Services;
  - (c) such costs arise from a Change arising from a Supplier's Default under Paragraph 6.3; or
  - (d) such costs exceed those in the accepted Impact Assessment Estimate.
- 6.2 The cost of implementing any Change shall be calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Schedule 7.1 (*Charges and Invoicing*). The Supplier shall be entitled to increase such Charges only if it can demonstrate in the Impact Assessment that the proposed Change requires additional resources and or activities, in any event, any change to the Charges resulting from a Change (whether the Change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources or activity required for the provision of the Services as amended by the Change.
- 6.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Supplier shall be paid for by the Supplier.

## **7 CHANGE PROPOSAL**

- 7.1 Either Party may issue a draft Change Proposal to the other Party at any time during the Term. A draft Change Proposal shall be substantially in the form of Annex 1 and state whether the Party issuing the draft Change Proposal considers the proposed Change is likely to impact Relevant Third Party Suppliers, be of a minor nature or such that it may not need to comply with the full requirements of this Schedule; and/or to be a Fast-track Change.
- 7.2 A draft Change Proposal may include proposals for more than one Change and/or multiple proposals for the same Change, including (without limitation) different delivery options, costing models and other variants.
- 7.3 Upon receipt of a draft Change Proposal from the Supplier, the Director will review and consider the draft Change Proposal to determine if it wishes to issue a Change Proposal and proceed. Only the Director may issue a Change Proposal. If the Director reasonably considers that it requires further information regarding the Change Proposal then the Director shall notify the Supplier of this fact and detail the further information it requires.
- 7.4 If further information is required under Paragraph 7.3, the Supplier shall provide the further information requested within five (5) Working Days of receiving the request and the Director shall review the revised draft Change Proposal again taking the further information into consideration.
- 7.5 The Director reserves the right to identify further requirements in order to progress the Change Proposal. The Director may at its sole discretion offer reasonable assistance from either itself or one or more Relevant Third Party Supplier to address such deficiencies and/or identify any further information that it requires.
- 7.6 If the Director rejects the Change Proposal, it will notify the Supplier of the rejection together with such reasons as the Director at its discretion determines necessary.

## 8 DEFINITION PHASE

- 8.1 Where the Director requests that a Definition Phase is completed in accordance with Paragraph 5.1.2 above, the Director will work with the Supplier and, as applicable, any Relevant Third Party Supplier to identify and develop the requirements of the Change including, without limitation:
- 8.1.1 develop the scope of the Change Proposal and undertake the work required to formulate, inform and prepare a draft Change Request;
  - 8.1.2 develop the outcomes, dependencies and deliverables from the Change Proposal for inclusion in the draft Change Request;
  - 8.1.3 identify any possible impacts on the Supplier, Relevant Third Party Suppliers and the Director and the Services of the Supplier and the Relevant Third Party Suppliers;
  - 8.1.4 identify a Lead Supplier if so required by the Director;
  - 8.1.5 identify an Impact Assessment Estimate for the Supplier (and each Relevant Third Party Suppliers);
  - 8.1.6 calculate the cost implications of the Change Request; and
  - 8.1.7 ensuring such requirements are in compliance with this Service Agreement and the Collaboration Agreement.
- 8.2 If, at the end of the Definition Phase, the Supplier determines that:
- 8.2.1 the proposed Change will not have any impact on its Services or Agreement; and
  - 8.2.2 there are no dependencies on it in relation to the potential delivery of such Change,
- it shall immediately confirm this in writing to the Director and shall have no further involvement in respect of that proposed Change.

## 9 CHANGE REQUEST

- 9.1 The Director may at its sole discretion issue a Change Request without requiring a Definition Phase, or Change Proposal. Alternatively, the Director may issue the Change Request following the development of a Change Proposal pursuant to Paragraph 7 or following the development of the Change Request through the Definition Phase.
- 9.2 Where the Change Request identifies the Supplier as a Lead Supplier, the Supplier shall act as a Lead Supplier in accordance with the provisions of the Collaboration Agreement subject to any specific limitations identified in the Change Request. For the avoidance of doubt a Lead Supplier shall not be authorised to approve Impact Assessments or Change Authorisation Notes on behalf of the Director.
- 9.3 On receipt of a Change Request, where there has been no Definition Phase, the Supplier shall provide as soon as reasonably practical and in any event within ten (10) Working Days of the date of issuing the Change Request an estimate of the cost of preparing an Impact Assessment ("**Impact Assessment Estimate**").
- 9.4 If the Director requests amendments or justifications from the Supplier in regard to their submitted Impact Assessment Estimate the Supplier shall make such amendments before re-submitting a revised Impact Assessment Estimate and/or provide the Director with any additional information requested as soon as reasonably possible and in any event within three (3) Working Days of the request.
- 9.5 The Supplier(s) shall complete an Impact Assessment in accordance with Paragraph 10 and issue the completed Impact Assessment to the Director:

- 9.5.1 in relation to a Small Change, within fifteen (15) Working Days;
- 9.5.2 in relation to a Single or Multi-Supplier Change, within thirty (30) Working Days; or
- 9.5.3 such longer period as may be specified by the Director,

of receipt of:

- 9.5.4 the Change Request, where a Definition Phase has already been undertaken; or
- 9.5.5 acceptance of the Impact Assessment Estimate, where no Definition Phase has been undertaken.

9.6 If the Supplier requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Director and, provided that sufficient information is received by the Director to fully understand:

- 9.6.1 the nature of the request for clarification; and
- 9.6.2 the reasonable justification for the request,

the time period to complete the Impact Assessment may, at the reasonable discretion of the Director, be extended by the time taken by the Director to provide that clarification. The Director shall respond to the request for clarification as soon as is reasonably practicable.

## 10 IMPACT ASSESSMENT

10.1 Each Impact Assessment shall be completed by the Supplier in good faith and shall include:

- 10.1.1 details of the proposed Change including the reason for the Change;
- 10.1.2 details of the impact of the proposed Change on the Services, the Service Continuity Plan, any Related Services, the Supplier's ability to meet its obligations under this Agreement and the Collaboration Agreement including any Dependencies on the Director or Relevant Third Party Suppliers or associated risks;
- 10.1.3 any variation to the terms of this Agreement that will be required as a result of that impact, including changes to:
  - (a) the Services Description, the Performance Indicators and/or the Target Performance Levels;
  - (b) the format of Director Data, as set out in the Services Description;
  - (c) the Milestones, Implementation Plan and any other timetable previously agreed by the Parties;
  - (d) the Dependencies and Operations Manual under the Collaboration Agreement; and/or
  - (e) other services provided by third party contractors to the Director, including any changes required by the proposed Change to the Director's IT infrastructure;
- 10.1.4 any necessary input from impacted Sub-contractors;
- 10.1.5 details of the cost of implementing the proposed Change (and, where applicable, cost structures and proposals) calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Schedule 7.1 (*Charges and Invoicing*);

- 10.1.6 details of the ongoing costs required by the proposed Change when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
  - 10.1.7 a timetable for the implementation, together with any proposals for the testing of the Change;
  - 10.1.8 details of how the proposed Change will ensure compliance with any applicable Change in Law;
  - 10.1.9 any impact on the details of Schedule 11 (*Processing Personal Data*);
  - 10.1.10 such other information as the Director may reasonably request in the Change Request; and
  - 10.1.11 a draft Change Authorisation Note and, if applicable a draft Agreement Amendment.
- 10.2 The Supplier shall work together with all Relevant Third Party Suppliers in accordance with the Collaboration Agreement in producing its individual Impact Assessment to ensure that the Impact Assessments of each Supplier(s) are aligned, will jointly deliver the required change, identify all dependencies and do not contain duplication.
- 10.3 Subject to the provisions of Paragraph 10.4, the Director shall review the Impact Assessment and respond to the Supplier in accordance with Paragraph 11.
- 10.4 If the Director reasonably considers that it requires further information regarding the proposed Change so that it may properly evaluate the Impact Assessment provided by the Supplier pursuant to Paragraph 10.1, then it shall notify the Supplier of this fact and detail the further information that it requires.
- 10.5 If the Director requests further information under Paragraph 10.4, the Supplier shall undertake the necessary work (including, if necessary, further liaison with the impacted Related Supplier(s)) then re-issue the relevant Impact Assessment to the Director within the time period required by the Director. At the Director's discretion, the Parties may repeat the process described in this Paragraph 10.5 until the Director is satisfied that it has sufficient information to properly evaluate the Impact Assessment and to satisfy the Director's internal authorisation and governance approvals or the Director determines not to proceed.
- 10.6 The calculation of costs for the purposes of Paragraph 10.1.6 shall:
- 10.6.1 be based on the Financial Model;
  - 10.6.2 facilitate the Financial Transparency Objectives;
  - 10.6.3 include estimated volumes of each type of resource to be employed and the applicable rate card;
  - 10.6.4 include full disclosure of any assumptions underlying such Impact Assessment;
  - 10.6.5 include evidence of the cost of any assets required for the Change; and
  - 10.6.6 include details of any new Sub-contracts necessary to accomplish the Change.

## **11 DIRECTOR'S RIGHT OF APPROVAL OR REJECTION**

- 11.1 Following receipt by the Director of the Impact Assessment from the Supplier the Director shall evaluate the Impact Assessment and shall do one of the following:
- 11.1.1 approve the proposed Change, in which case the Parties shall follow the procedure set out in Paragraph 11.2;



- 11.1.2 in its absolute discretion reject the Change, in which case it shall notify the Supplier of the rejection. The Director shall not reject any proposed Change to the extent that the Change is necessary for the Supplier or the Services to comply with any Changes in Law (but may require modifications pursuant to Paragraph 11.1.3). If the Director does reject a Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or
- 11.1.3 in the event that it reasonably believes that an Impact Assessment contains errors or omissions or in circumstances where it disputes or challenges aspects of the Impact Assessment or if it wishes the Supplier to review and revise aspects of the Impact Assessment, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within ten (10) Working Days of such request or as the Director may otherwise request. Subject to Paragraph 10.4, on receiving the modified Impact Assessment, the Director shall consider the same pursuant to this Paragraph.
- 11.2 If the Director approves the proposed Change pursuant to Paragraph 11.1 then the Director shall inform the Supplier. An accepted Impact Assessment shall remain valid for a minimum period of thirty (30) Working Days following approval by the Director.
- 11.3 Following acceptance of the Impact Assessment the Director may issue a Change Authorisation Note. Following receipt by the Supplier of the Change Authorisation Note, it shall sign both copies and return one copy to the Director.
- 11.4 On the later of:
  - 11.4.1 signature of the Change Authorisation Note by both parties; or
  - 11.4.2 the completion of the last related Change Authorisation Note by the Director with a Relevant Third Party Supplier where the Change is a Multi-Supplier Change,

the Change Authorisation Note shall constitute a legally binding obligation on the parties in respect of the delivery of the Change identified in that Contract Authorisation Note subject always to the terms and conditions of this Agreement as are applicable, save that any amendments required to the Agreement as a result of the Change shall not become a binding variation to the Agreement until a Agreement Amendment has been signed by both parties in accordance with Paragraph 12.
- 11.5 If the Supplier does not sign the Change Authorisation Note within two (2) Working Days of receipt, then the Director shall notify the Supplier to request it sign the Change Authorisation Note within a further two (2) Working Days or meet with the Director to discuss its concerns. If the Supplier still does not sign the Change Authorisation Note or meet the Director to discuss its reasons for not signing the Change Authorisation Note within a further two (2) Working Days of such notification and/or if the Supplier acts on the Change Authorisation Note, then the Supplier shall be deemed to have accepted the relevant Change Authorisation Note.
- 11.6 Subject to Paragraph 13, if the Supplier has not raised these concerns previously in regard to the relevant Change at any point throughout the Change Control Procedure the Parties agree that the Director will have absolute discretion whether to incorporate the Supplier's comments or deem the Change Authorisation Note as accepted and signed by the relevant Supplier.

## **12 AGREEMENT AMENDMENT**

- 12.1 In the event that a Change which has been the subject of a Change Authorisation Note requires an amendment to the Agreement to take into account the result of such Change, the Change Authorisation Note shall include as an annex, a draft Agreement Amendment.
- 12.2 Each draft Agreement Amendment shall include as a minimum:
  - 12.2.1 the reason for the proposed amendment;

- 12.2.2 the proposed drafting amendments to the terms of this Agreement (including amendments to any relevant schedule);
  - 12.2.3 any changes to Charges as a result of the amendment, including where required a replacement Pricing Response Template; and
  - 12.2.4 the date on which the amendment will be effective from.
- 12.3 The parties shall sign the Agreement Amendment, in the form attached to the relevant Change Authorisation Note, within two (2) Working Days of completion of the Change or at such other time as the Director may require. Upon signature by both parties, or deemed accepted in accordance with Paragraph 12.4, the Agreement Amendment shall constitute a binding variation to this Agreement.
- 12.4 If the Supplier does not sign the Agreement Amendment as required in Paragraph 12.3, then the Director shall notify the Supplier to request it sign the Agreement Amendment within a further two (2) Working Days. If the Supplier still does not sign the Agreement Amendment within a further two (2) Working Days, then the Supplier shall be deemed to have accepted the relevant Change Authorisation Note.

### **13 SUPPLIER'S RIGHT OF APPROVAL**

- 13.1 Following issue of a Change Proposal, Change Request or an Impact Assessment, if:
- 13.1.1 the Supplier reasonably believes that any proposed Change which is requested by the Director would:
    - (a) materially and adversely affect the risks to the health and safety of any person; and/or
    - (b) require the Services to be performed in a way that infringes any Law; and/or
  - 13.1.2 the Supplier demonstrates to the Director's reasonable satisfaction that the proposed Change is technically impossible to implement and neither the Supplier Solution nor the Services Description state that the Supplier does have the technical capacity and flexibility required to implement the proposed Change,

then the Supplier shall be entitled to reject the proposed Change and shall notify the Director of its reasons for doing so within the Definition Phase and shall work with the Director and any Relevant Third Party Suppliers to revise the requirements to ensure the Change can be delivered.

### **14 FAST-TRACK CHANGES**

- 14.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.
- 14.2 If:
- 14.2.1 the Change is a Consultancy Change; or
  - 14.2.2 the total number of Changes in relation to which this Fast-track Change procedure has been applied does not exceed four (4) in any twelve (12) month period; and
  - 14.2.3 both Parties agree the value of the proposed Change over the remaining Term (including any period for which Termination Services may be required) does not exceed the delegated authority level of the Director Change Manager which, as at the date of this Agreement is £500,000 and the proposed Change is not significant (as determined by the Director acting reasonably); or

- 14.2.4 the Director (acting reasonably) has reason to consider the Change suitable to use the Fast-track Change procedure,

then the Director shall confirm to the Supplier in writing that they shall use the process set out in Paragraphs 7, 10, 11 and 12 but with reduced timescales, such that (unless the Director has notified the Supplier otherwise) any period of fifteen (15) Working Days is reduced to five (5) Working Days, any period of thirty (30) Working Days is reduced to ten (10) Working Days and any period of five (5) Working Days is reduced to one (1) Working Day.

- 14.3 The Parties may agree in writing to revise the parameters set out in Paragraph 14.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Change notwithstanding that the total number of Changes to which such procedure is applied will then exceed four (4) in a twelve (12) month period.

## **15 AMENDED CHANGE PROCEDURE**

- 15.1 If the Director considers that the Change Proposal or Change Request does not warrant the operation of this Schedule in its entirety (for example, it is a minor change or of limited value or impact) then it may seek to implement the Change using an abbreviated form of this Schedule. In so deciding the Director shall notify the Supplier of the changes to the procedure which may include (without limitation) the reduction of time and/or the reduction in information required in the Impact Assessment and/or absence of one or more of the stages within the Change Control Procedure.

## **16 ON-BOARDING NEW OR REPLACEMENT SUPPLIERS**

- 16.1 In circumstances where the Director is to appoint a new or replacement supplier as a Relevant Third Party Supplier or to other aspects of the End to End Services, the Supplier shall provide such Additional Services as a Multi-Supplier Change save that:

- 16.1.1 the costs of such Additional Service will be calculated in accordance with the detail set out in Schedule 7.1 (*Charges and Invoicing*);
- 16.1.2 the Supplier shall co-operate pursuant to its obligations under the Collaboration Agreement; and
- 16.1.3 the Impact Assessment will detail any variance (including explanation for the variance) to the dependencies identified by the Supplier and set out in either Schedule 7.1 (*Charges and Invoicing*) or Schedule 4.1 (*Supplier Solution*) in respect of those Additional Services.

## **17 COMMUNICATIONS**

- 17.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Director Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 47 (*Notices*) shall apply to a Change Communication as if it were a notice.

## **18 FUTURE OFFSHORING**

- 18.1 As at the Effective Date, the Director has no authority to allow for any of the Services to be delivered offshore beyond the United Kingdom. Any such authority would be required from Central Government.
- 18.2 It is not envisaged that any of the Services requiring contact with Customers will ever be allowed to be delivered offshore beyond the United Kingdom.
- 18.3 In circumstances where the Supplier (or the Director) considers there may be merit to an element of the Services being provided offshore (Paragraph 18.2) then it may issue a specific Change Proposal pursuant to Paragraph 5.1.
- 18.4 Any Change Proposal issued pursuant to Paragraph 18.3 will ultimately require approval from Central Government but will be entirely at the discretion of the Director and must not result in:

- 18.4.1 any change to the risk profile in the Agreement;
  - 18.4.2 any risk of deterioration in Service delivery or threat to the continuity of Services; or
  - 18.4.3 any additional profit to the Supplier beyond that allowed in Part 4 of Schedule 7.1 (*Charges and Invoicing*).
- 18.5 The specific requirements and content for any Change Proposal Form under this Paragraph 18 will be determined by the Director including any limitations on the scope of any such offshoring but will include requirements to ensure:
- 18.5.1 continuity of Services;
  - 18.5.2 suitable Test Success Criteria;
  - 18.5.3 management of data in accordance with the Agreement;
  - 18.5.4 continuation of KPIs and other performance measures and standards;
  - 18.5.5 appropriate testing regime;
  - 18.5.6 ongoing collaboration; and
  - 18.5.7 other specific requirements relating to staffing and other measures are adequately addressed.

## **19 DUPLICATION CHARGE CHANGE**

- 19.1 Where the Supplier is either the same legal entity as or part of the same legal group of entities to one or more of the Relevant Third Party Suppliers, the Director is entitled to issue a Duplication Charge Change to remove any Duplication.
- 19.2 The amount of Duplication, if relevant, shall be clearly set out by the Supplier during the dialogue stage of the procurement and such amount shall be fixed unless agreed otherwise by the Parties.
- 19.3 The Director shall (at its absolute discretion) determine whether a Duplication Charge Change shall be required and, if so, the Parties shall deal with the Change in accordance with Paragraph 5.
- 19.4 In respect of Duplication Charge Change:
- 19.4.1 Paragraphs 9 to 17 of this Schedule will apply;
  - 19.4.2 the Director shall issue a Change Request in accordance with Paragraph 9 (without requiring a Definition Phase) and such Change Request shall include the following information as a minimum:
    - (a) any further information required by the Supplier;
    - (b) the actual or anticipated amount of Duplication and equivalent Service Charge reduction; and
    - (c) the effective date of the reduction in the Service Charge; and
  - 19.4.3 the Supplier will work with the Director to agree efficiencies in their ways of working and distribution of resource including managing the impact or involvement of Relevant Third Party Suppliers but always subject to the terms and conditions of this Agreement and its applicable Schedules including but not limited to:
    - (a) Schedule 2.1 (*Service Description*);

- (b) Schedule 2.2 (*Performance Levels*);
- (c) Schedule 4.1 (*Supplier Solution*);
- (d) Schedule 6.2 (*Testing Procedures*); and
- (e) Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*).

19.5 The Parties agree that in respect of a Duplication Charge Changes:

19.5.1 it will be delivered and implemented at no additional cost to the Director; and

19.5.2 each Party shall bear their own costs in relation to this Paragraph 19.

ANNEX 1: CHANGE PROPOSAL FORM

# NS&I Change Proposal

Template Summary:

<b>AUTHOR(S)</b>	NS&I Enterprise Programme Office
<b>REVIEWER(S)</b>	NS&I Change Management; NS&I Commercial Management
<b>VERSION</b>	[Status]
<b>DATE</b>	[insert date]

Change Title	:
Change Sponsor(s)	:
Change Business Owner(s)	:
Contributors	: Enter names of individuals who have contributed to the document
Date Submitted	:
Change Proposal Status	: Draft / Approved
Change Proposal Version	:
Type of Change proposed (cross applicable)	: Choose a Change Type
Areas Impacted (including any third party suppliers)	:

*Section 1: Current Situation*

**1.1 Provide an outline of the current 'as is' situation and reasons why it must be changed, e.g. is there a risk/opportunity or threat?**

---

*Section 2: Change Objective(s)/Scope*

**2.1 Provide a description of what you want the change to deliver in terms of Change Objective - for example on completion of this change, NS&I will have maintained / eliminated / decreased / increased / created...**

---

**2.2 Provide a description of what you want the change to deliver in terms of Change Scope – what needs to be done to achieve the Change Objective**

---

*Section 3: Strategic Alignment and Business Benefits*

**3.1.1 Business Strategy**

Choose an Strategy.

**3.1.2 Explain how the Change will align with a Business Strategy**

---

**3.2 Provide detail of the expected measurable benefits**

---

*Section 4: Constraints*

**Provide detail of any factors that may constrain the delivery of the Change**

---

---

*Section 5: Dependencies*

**Provide detail of any known Dependencies**

---

---

*Section 6: Assumptions*

**Provide detail of any known Assumptions**

---

---

*Section 7: Risk*

**Provide detail of any identified delivery risks for this Change**

---

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*Section 8: High Level Requirements*


**Provide a prioritised list (using Must Have, Should Have, Could Have) and description of the high-level requirements necessary to deliver this Change**



High Level Requirement Detail	MOSCOW




## ANNEX 2: CHANGE REQUEST FORM

### Change Request Form

Section 1: Overview			
Name of Change		Date Raised	
CR Number (NS&I EPO to allocate)		Type of Change	
Sponsor		Business Owner	
Sponsor E-mail		Business Owner Email	
Why would you like to make this change?			
What would you like to change?			
Strategic Alignment and Benefits			
Strategy the change is aligned to:			
If not aligned to a strategy please provide justification			
Benefit Description		Select the Strategic Sub-Aim each benefit aligns to:	
		Select strategic sub-aim	
		Select strategic sub-aim	
Section 2: Requirements			
2.1 Business Requirements			
All business requirements must be captured in the form of 'user-stories' within the attached <b>Statement of Business Requirements (SBR)</b> template.			 SBR Template v6.3.xlsx
2.2 Target Timelines			
Are there any business drivers (either internal or external) for a particular delivery date? If so, please explain.			

Section 3: Risk and Compliance		
<b>3.1 Data Protection</b>		
Screening question must be completed for all Change Requests. The completed form must be submitted to your DPO/DPM and embedded in this Change Request.		
<b>NS&amp;I</b>	<b>Partner</b>	<b>Embed Completed Screening Questions Here</b>
Complete the NS&I Screening questions and submit to <a href="mailto:DPAssessment@nsandi.com">DPAssessment@nsandi.com</a>  NS&I DPIA Screening Questions v6.0	Complete the Partner screening questions  Partner PIA SQ v1.0.docx	
A decision must be obtained from your DPO/DPM as to whether a full Data Protection Impact Assessment is required prior to submission of Change Request. Has DPO/DPM indicated that a full Data Protection Impact Assessment is required?		Click here to select a response.
<b>3.2 Risks</b>		
Please provide any known risks associated with performing this change		

Section 4: Commercial Considerations
<b>4.1 Commercials</b> (either NS&I or Partner)
Please obtain Commercial view and state charging mechanism (Time and Materials, Estimated Charge or Fixed Price)
<b>4.2 Acknowledgement by Receiving Party</b> (either NS&I or Partner)
Insert agreement to proceed

Section 5: Impact Assessment Response	
Insert <b>Partner Impact Assessment Response</b> here:	 Partner IA v1.0.docx

Section 6: Approval to Proceed with Change	
SIGNED ON BEHALF OF THE DIRECTOR	SIGNED ON BEHALF OF THE PARTNER
Signature:  No changes can be made to document after signature	Signature:  No changes can be made to document after signature
Name:	Name:
Position:	Position:
Date:	Date:

**Note:** Once signed, a copy should be stored securely.

## ANNEX 3: CHANGE AUTHORISATION NOTE

# Change Authorisation Note (CAN)



This form gives the Supplier formal notice to proceed with the changes below.

**Please note:** This form is binding under the terms of the Contract subject to the provisions of Schedule 8.2.

---

**Change Title:**

**Ref. No.**

**Prepared By:**

**Reviewed By:**

**Version, Status & Date:**

---

For authorisation, please see Section 4.

### Section 1: Change Overview

**1.1 Supplier Name /  
Contract:**

**1.2 Date CAN issued  
to Supplier:**

**1.3 Is Change to Contract  
Required?**

**1.4 Target Implementation  
Date (if applicable):**

**1.5 Milestone Date (if  
applicable):**

---

## **Section 2: Detailed Description of Agreed Change**

### **2.1 Change Requirements and Solution(s)**

---

### **2.2 Detailed Description of Contract change for which IA was prepared and wording of related changes to Contract**

---

### **2.3 Implementation**

---

## **Section 3: Costs**

### **3.1 Proposed Adjustment to the Charges resulting from the Change**

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### **3.2 Details of proposed one-off additional charges and means for determining these (e.g. Fixed Price basis)**

---

#### Section 4: Signatures

**SIGNED ON BEHALF OF THE DIRECTOR:**

**SIGNED ON BEHALF OF THE SUPPLIER:**

**Signature:**

**Signature:**

**No changes can be made to document after signature**

**No changes can be made to document after signature**

**Name:**

**Name:**

**Position:**

**Position:**

**Date:**

**Date:**

#### **ANNEX 4: AGREEMENT AMENDMENT**

To be determined by the Director



## SCHEDULE 8.3 - DISPUTE RESOLUTION PROCEDURE

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**Expert** in relation to a Dispute, a person appointed in accordance with Paragraph 6 to act as an expert in relation to that Dispute.

**Expert Determination** means determination by an Expert in accordance with Paragraph 6.

**Multi-Party Dispute** means a Dispute which involves the Parties and one or more Related Third Parties.

**Multi-Party Dispute Representatives** has the meaning given in Paragraph 8.7.

**Multi-Party Dispute Resolution Board** has the meaning given in Paragraph 8.7.

**Related Third Party** means a party to:

- (a) another contract with the Director or the Supplier which is relevant to this Agreement;
- (b) a Sub-contract; or
- (c) a Relevant Third Party Supplier.

**Supplier Request** means a notice served by the Supplier requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Party Dispute Resolution Procedure in respect of that Dispute.

### 2 DISPUTE NOTICES

2.1 Save in respect of a Dispute in relation to allocation of liability for Compensation Payments pursuant to Paragraph 3 of Part 3 Schedule 7.1 (*Charges and Invoicing*) which shall be dealt with in accordance with the provisions of that Schedule, if a Dispute arises either Party may serve on the other Party a notice clearly titled "dispute notice" and including a clear summary of the Dispute ("**Dispute Notice**") together with any relevant supporting documents of which it reasonably believes the other Party does not hold a copy.

2.2 A Party may include in a Dispute Notice one or more Disputes.

2.3 If the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the Dispute Notice must set out the reason(s) why.

2.4 If the Party serving the Dispute Notice believes that the Dispute is a Multi-Party Dispute, the Party must specify the same and, if the Director determines that such Dispute is a Multi-Party Dispute, the provisions of Paragraph 8 (*Multi-Party Disputes*) shall apply.

2.5 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under Paragraph 7 (*Urgent Relief*).

### 3 EXPEDITED DISPUTE TIMETABLE

3.1 Subject at all times to the discretion of the Director, the Parties may agree to use the Expedited Dispute Timetable if they consider it appropriate. If the Parties are unable to reach agreement on whether to

use the Expedited Dispute Timetable within five (5) Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Director.

3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of Paragraph 3.1 or is otherwise specified under the provisions of this Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable Paragraphs:

3.2.1 in Paragraph 4.2, ten (10) Working Days; and

3.2.2 in Paragraph 6.3, ten (10) Working Days.

3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within two (2) Working Days after the deadline has passed, the Director may set a revised deadline. If the Director fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

#### **4 NEGOTIATION**

4.1 Following deemed service of a Dispute Notice, then, (save where the Director has served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute), the Director and the Supplier shall attempt in good faith to resolve the Dispute.

4.2 If the Parties have not resolved the Dispute within twenty (20) Working Days of the date on which the Dispute Notice is deemed served, they may within five (5) Working Days following the end of the 20 Working Day negotiation period:

4.2.1 agree an extension of time to continue the negotiations; or

4.2.2 agree that the Dispute(s) set out in the Dispute Notice should be referred to Expert Determination under Paragraph 6 of this Schedule.

4.3 If the Parties fail to agree one of the options in Paragraph 4.2, the Dispute set out in the Dispute Notice will be automatically referred to adjudication under Paragraph 5 of this Schedule.

4.4 Where an extension of time is agreed under Paragraph 4.2.1, the Parties will continue their attempts in good faith to resolve the Dispute for the duration of that agreed extension period. When that agreed extension period ends and where the Dispute remains unresolved, Paragraphs 4.2 and 4.3 will apply again (except that references to the “twenty (20) Working Days” period shall be read and interpreted to include the agreed extension period).

#### **5 ADJUDICATION**

5.1 The Party who served the Dispute Notice may refer the Dispute to adjudication in accordance with the version of the Society for Computers & Law Adjudication Rules in force at the time of referral (“**SCLA Rules**”).

5.2 Subject to Paragraph 7 (*Urgent Relief*) of this Schedule, no litigation relating to that Dispute may be commenced prior to the publication of the Adjudicator’s Decision.

5.3 If either Party wishes to commence litigation after the Decision has been published, it must do so within six (6) calendar months of the Effective Date of the Decision, otherwise the claim will be time-barred.

5.4 If the Society for Computers & Law adjudication scheme is revoked, the Parties are still governed by and shall comply with this Paragraph 5 and (to the extent possible in light of the revocation of the scheme) the SCLA Rules, but Paragraph 7 to Paragraph 9 of the SCLA Rules Version 2.1 (or equivalent paragraphs of a later version) will be replaced with “*The Parties shall within twenty-one (21) days of the Dispute notice agree on and appoint an adjudicator*”. In the absence of agreement between

the Parties, either party may request that the Society for Computers and Law (or, if unavailable or unwilling, an equivalent organisation) to nominate an Adjudicator, and such nomination will be binding on the Parties.

- 5.5 Capitalised terms in this Paragraph 5 which are undefined in the Agreement are defined in the SCLA Rules.

## **6 EXPERT DETERMINATION**

- 6.1 The Parties acknowledge that some Disputes (due to their complexity or the volume of information or evidence that may be required to help resolve the issues) may not be suitable for adjudication under Paragraph 5.
- 6.2 Subject to the Parties' agreement under Paragraph 4.2.2, The Party who served the Dispute Notice may refer the Dispute to Expert Determination by serving a notice on the other Party, stating that the Dispute is referred to Expert Determination, proposing three conflict-free and available experts, and enclosing a draft expert determination agreement.
- 6.3 Within twenty-eight (28) days of the Party referring the Dispute to Expert Determination, the Parties will agree the identity of the Expert (who need not be one of the experts proposed by the referring Party) and the terms of the expert determination agreement (including the precise questions to be put to the Expert).
- 6.4 If the Parties are unable to agree on:
- 6.4.1 the identity of the Expert, the Parties will ask the Society for Computers and Law or, if unavailable, an equivalent body to appoint an Expert; and/or
  - 6.4.2 the terms of the expert determination agreement, the Expert will assist the Parties with agreeing the terms.
- 6.5 The Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate. The Parties will be bound by these procedures.
- 6.6 The Expert Determination shall be conducted in line with the following:
- 6.6.1 the Expert's determination shall (in the absence of manifest error, fraud or material failure to follow the agreed procedures) be final and binding on the Parties;
  - 6.6.2 the Expert may award interest as part of their decision;
  - 6.6.3 the Parties shall decide the procedure in the expert determination agreement, but the Expert shall have the right to order directions, additional processes/procedures;
  - 6.6.4 the Expert shall be requested to make his/her determination within thirty (30) Working Days of their appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination; any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
  - 6.6.5 the Expert may direct that any legal costs and expenses incurred by a Party in respect of the determination shall be paid by another Party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, a direction on that basis is not appropriate in relation to the whole or part of such costs;

- 6.6.6 the Expert's fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Parties equally or in such other proportions as the Expert shall direct;
- 6.6.7 unless agreed by the Parties and the Expert, the expert determination process will conclude within six (6) months; and
- 6.6.8 all matters concerning the Expert Determination shall be kept confidential between the Parties and the Expert.

## **7 URGENT RELIEF**

### **7.1 A Party may at any time:**

- 7.1.1 apply to the court for urgent injunctive relief or other interim remedies except where the subject matter of that application is already covered by a Dispute that has been referred to:
  - (a) adjudication under Paragraph 5; or
  - (b) Expert Determination under Paragraph 6 (where the expert determination agreement has been agreed and signed by the Parties and the Expert); and/or
- 7.1.2 commence court proceedings where the Dispute Resolution Procedure may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

## **8 MULTI-PARTY DISPUTES**

- 8.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this Paragraph 8 (the **"Multi-Party Dispute Resolution Procedure"**).
- 8.2 If at any time following the issue of a Dispute Notice, the Director receives a Supplier Request proposing a Multi-Party Dispute and/or the Director reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Director may at its discretion, in the interest of determining the extent of Related Third Party involvement, request a 'nil impact' confirmation from those Related Third Parties it identifies in respect of the relevant Dispute.
- 8.3 If at any time following the issue of a Dispute Notice, the Director reasonably considers that the matters giving rise to the Dispute do involve one or more Related Third Parties, then the Director shall be entitled to determine that the Dispute is a Multi-Party Dispute and to serve a notice on the Supplier which sets out the Director's determination that the Dispute is a Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure (such notice a **"Multi-Party Procedure Initiation Notice"**).
- 8.4 If, following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination in accordance with Paragraph 6 or to adjudication in accordance with Paragraph 5, the Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Supplier must serve a Supplier Request on the Director for the Director to issue a Multi-Party Procedure Initiation Notice. The Supplier is obliged to serve such Supplier Request promptly, and in any event within five (5) Working Days of any grounds for such Dispute becoming a Multi-Party Dispute having been brought to the Supplier's attention.
- 8.5 The Director shall (acting reasonably) consider each Supplier Request and shall determine within five (5) Working Days whether the Dispute is:
  - 8.5.1 a Multi-Party Dispute, in which case the Director shall serve a Multi-Party Procedure Initiation Notice on the Supplier; or

8.5.2 not a Multi-Party Dispute, in which case the Director shall serve written notice of such determination upon the Supplier and the Dispute shall be treated in accordance with Paragraphs 4 to 7.

8.6 If the Director has determined, following a Supplier Request, that a Dispute is not a Multi-Party Dispute, the Supplier may not serve another Supplier Request with reference to the same Dispute.

8.7 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the “**Multi-Party Dispute Resolution Board**”) comprising representatives from the following parties to the Multi-Party Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the Multi-Party Dispute:

8.7.1 the Director;

8.7.2 the Supplier;

8.7.3 each Related Third Party involved in the Multi-Party Dispute; and

8.7.4 any other representatives of any of the Parties and/or any Related Third Parties whom the Director considers necessary,

(together “**Multi-Party Dispute Representatives**”).

8.8 The Parties agree that the Multi-Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:

8.8.1 the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-Party Dispute Resolution Board in respect of the Multi-Party Dispute;

8.8.2 the Multi-Party Dispute Resolution Board shall first meet within ten (10) Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within five (5) Working Days of service of the relevant Multi-Party Procedure Initiation Notice, at the time and place specified by the Director, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and

8.8.3 in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

8.9 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within twenty-five (25) Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

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

8.9.2 Paragraph 5 (*Adjudication*) shall apply to the Multi-Party Dispute,

and in each case references to the “Supplier” or the “Parties” in such provisions shall include a reference to all Related Third Parties.

## SCHEDULE 8.4 - REPORTS AND RECORDS PROVISIONS

### 1 TRANSPARENCY REPORTS

- 1.1 Within three (3) months of the Effective Date the Supplier shall provide to the Director for its approval (such approval not to be unreasonably withheld or delayed) draft reports in accordance with Annex 1 (once approved, the “**Transparency Reports**”). The content, purpose, format and frequency of the Transparency Reports shall be agreed subject to the Director’s reporting obligations, and may be updated or amended from time to time as notified by the Director.
- 1.2 If the Director rejects any draft Transparency Report, the Supplier shall submit a revised version of the relevant report for further approval by the Director within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Director. If the Parties fail to agree on a draft Transparency Report the Director shall determine what should be included.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Director at the frequency referred to in Annex 1.
- 1.4 Any disagreement in connection with the preparation and/or approval of Transparency Reports, other than under Paragraph 1.2 above in relation to the contents of a Transparency Report, shall be treated as a Dispute.
- 1.5 The requirements for Transparency Reports are in addition to any other reporting requirements in this Agreement.

### 2 OTHER REPORTS

- 2.1 The Director may require any or all of the following reports:
  - 2.1.1 delay reports;
  - 2.1.2 reports relating to Testing and tests carried out under Schedule 2.4 (*Security Management*) and Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*);
  - 2.1.3 reports which the Supplier is required to supply as part of the Management Information;
  - 2.1.4 a quarterly capacity plan and a quarterly business forecast in the format specified by the Director, which shall include identification of opportunities for optimising capacity and an analysis of the anticipated impact of any expected change in volume/availability requirements for the next Service Period;
  - 2.1.5 annual reports on the Insurances;
  - 2.1.6 security reports; and
  - 2.1.7 Force Majeure Event reports.

### 3 SERVICE DESK AND DASHBOARD

- 3.1 The Supplier shall cooperate, collaborate and engage as necessary with the Service Desk and the Relevant Third Party Suppliers in respect of the Service Desk and fulfil all roles and responsibilities as defined by the Service Desk to ensure a clear approach to the detection of, response to and resolution of any and all Incidents and to integrate with the Dashboard and/or management tools to facilitate automated assignment and update of Incident data. Where operations or elements of Services are non-digital in nature, the Supplier shall deliver real-time (or as close as possible) automated information feeds including workflow data and queue monitoring.

- 3.2 In its engagement with the Service Desk, the Supplier shall comply with the requirements set out in Schedule 2.1 (*Service Description*), and the Supplier shall as a minimum:
- 3.2.1 provide details of the relevant contact points for the Service Desk to interface with the Supplier's Systems;
  - 3.2.2 notify the Service Desk immediately on becoming aware of a fault or failure, and providing all relevant available information including date and time, source, error messages generated;
  - 3.2.3 acknowledge and accept Incidents assigned to the Supplier, and promptly return Incidents where incorrectly assigned; and
  - 3.2.4 provide updates on the progress of Incidents assigned to the Supplier in accordance with the timescales required, and notify the Service Desk when an Incident is resolved.
- 3.3 The Supplier shall provide real-time data access to the Director (and the nominated Relevant Third Party Supplier providing the Dashboard on behalf of the Director) to integrate into the Dashboard, to include service operations and Incident management information and to enable the Director to have 24/7 access to live service operational and performance data through the Dashboard.
- 3.4 The Director shall be entitled to raise any queries and/or request additional information from the Supplier in real time in respect of potential or occurring service performance issues on the basis of the Dashboard feed.

#### **4 KNOWLEDGE & INSIGHT**

- 4.1 The Supplier shall ensure that data is available to be used by the Director's Knowledge and Insight Function to enable the Director to make effective operational and Customer-driven decisions, and shall collaborate and cooperate with Relevant Third Party Suppliers as necessary to assist the Knowledge and Insight Function.
- 4.2 In its engagement with the Knowledge and Insight Function, the Supplier shall comply with the requirements set out in Schedule 2.1 (*Service Description*), including providing analysis of data from its Services, such as call data (e.g. call length), call transcripts and Customer feedback in the format and at a frequency determined by the Director.

#### **5 RECORDS**

- 5.1 The Supplier shall provide a secure document storage and retrieval solution, so that all documents received or issued (whether hard copy, physical documents or digital) can be stored and retained in line with the relevant regulatory, legal and internal policies.
- 5.2 The Supplier shall retain and maintain all the records (including superseded records) referred to in Paragraph 1 and Annex 2 (together "**Records**"):
- 5.2.1 in accordance with the requirements of The National Archives and Good Industry Practice;
  - 5.2.2 in chronological order;
  - 5.2.3 in a form that is capable of audit; and
  - 5.2.4 at its own expense.
- 5.3 The Supplier shall make the Records available for inspection to the Director on request, subject to the Director giving reasonable notice.
- 5.4 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to the Director.

- 5.5 The Supplier shall, during the Term and a period of at least seven (7) years following the expiry or termination of this Agreement, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all Records. Notwithstanding the generality of this Paragraph, the Supplier shall ensure that the information required to be recorded in relation to Paragraph 20 of Annex 2 (which includes the logs and data associated with monitoring) shall thereafter be stored securely offline for a period of at least three (3) years, in a format capable of being restored promptly on request by the Director.
- 5.6 Records that contain financial information shall be retained and maintained in safe storage by the Supplier for a period of at least seven (7) years after the expiry or termination of this Agreement.
- 5.7 Without prejudice to the foregoing, the Supplier shall provide the Director:
- 5.7.1 as soon as they are available, and in any event within sixty (60) Working Days after the end of the first six (6) months of each financial year of the Supplier during the Term, a copy, certified as a true copy by an authorised representative of the Supplier, of its un-audited interim accounts and, if applicable, of consolidated un-audited interim accounts of the Supplier and its Affiliates which would (if the Supplier were listed on the London Stock Exchange (whether or not it is)) be required to be sent to shareholders as at the end of and for each such six (6) month period; and
- 5.7.2 as soon as they shall have been sent to its shareholders in order to be laid before an annual general meeting of the Supplier, but not later than one hundred and thirty (130) Working Days after the end of each accounting reference period of the Supplier part or all of which falls during the Term, the Supplier's audited accounts and if applicable, the consolidated audited accounts of the Supplier and its Affiliates in respect of that period together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.

## **6 Virtual Library**

- 6.1 The Supplier shall, no later than eight (8) weeks prior to the Operational Services Commencement Date and without charge to the Director, create a Virtual Library on which the Supplier shall (subject to any applicable legislation governing the use or processing of personal data) make information about this Agreement available in accordance with the requirements outlined in this Schedule.
- 6.2 The Supplier shall ensure that the Virtual Library is:
- 6.2.1 capable of holding and allowing access to the information described in Annex 3 of this Schedule and includes full and accurate file details of all uploaded items including date and time of upload, version number and the name of the uploader;
- 6.2.2 structured so that each document uploaded has a unique identifier which is automatically assigned;
- 6.2.3 readily accessible by the Director at all times in full via a user-friendly, password protected interface to such nominated users as are notified to the Supplier by the Director from time to time;
- 6.2.4 structured so as to allow nominated users to download either specific documents or the complete Virtual Library (to the extent it has Access Permission) in bulk and store and view the content offline (on a regular and automated basis);
- 6.2.5 structured and maintained in accordance with the security requirements as set out in this Agreement including those set out in Schedule 2.4 (*Security Management*);
- 6.2.6 created and based on open standards in Schedule 2.3 (*Standards*); and
- 6.2.7 backed up on a secure off-site system.



- 6.3 For the avoidance of doubt, the Virtual Library (excluding any Software used to host it) shall form a database which constitute Project Specific IPR which shall be assigned to the Director pursuant to Clause 17.1 (*Specially Written Software and Project Specific IPR*) of this Agreement.
- 6.4 The Supplier shall upload complete and accurate information specified in Annex 3 by the Initial Upload Date (except where prior to the launch of the Virtual Library in which case the date at which the Virtual Library is made available in accordance with Paragraph 6.1) onto Virtual Library in the format specified.
- 6.5 Upon any document being uploaded to the Virtual Library, and where the Director has been granted Access Permission to that document, the Supplier shall email on the same date as the upload, a copy of the document to the nominated Director email address at: [terry.maley@nsandi.com](mailto:terry.maley@nsandi.com) or such other addressed notified to the Supplier by the Director from time to time.
- 6.6 Except for notices under Clause 47.4 (*Notices*) or items covered by Clause 47.6, where the Supplier is under an obligation to provide information to the Director in a provision under this Agreement, then the Supplier's upload of that information onto the Virtual Library shall satisfy the Supplier's obligation to provide the Director with that information provided that the Director has access in accordance with this Paragraph 6 and the uploaded information meets the requirements more particularly specified in the relevant provision.
- 6.7 Except to the extent that the requirements provide for earlier and more regular Director access to up-to-date information, Annex 3 shall not take precedence over any other obligation to provide information in this Agreement and the Supplier shall refer to the applicable clause for further details as to the requirement.
- 6.8 Subject to the Supplier's right to redact any Confidential Information contained within the relevant items, the Director may from time to time request copies of the information in the Virtual Library for the purpose of sharing such information with the Related Third Party Suppliers. The Supplier shall provide such information promptly and in an accessible form for onward circulation.
- 6.9 The Supplier shall provide each specified person (as set out in column 6 of the table at Annex 3) access to view and download the specified information in the Virtual Library in Annex 3 subject upon the occurrence of the event specified in the column marked Access Permission in Annex 3 to this Schedule.
- 6.10 Where Access Permission is not listed (in column 6 of the table at Annex 3) as being subject to the occurrence of a certain event the Supplier shall grant access to the person and information specified (in column 6 of the table at Annex 3) from the Initial Upload Date.
- 6.11 Where Access Permission is specified as being granted to the Director's Third Party Auditor (prior to the Director being granted access) it shall:
- 6.11.1 be entitled to access, view and download information specified in Annex 3 subject to it entering into a confidentiality agreement with the Supplier to keep the contents confidential (except to the extent disclosure of the confidential information is required under Paragraph 6.11.2 of this Schedule); and
  - 6.11.2 report to the Director (at its request) as to the completeness and accuracy of the information but not the substance of the information.
- 6.12 The Supplier shall ensure that the Virtual Library retains in an accessible form all historic or superseded records of the information specified in Annex 3. In order to maintain the integrity of the historic archive of the information and documentation and for the purposes of maintaining a clear audit trail, the Supplier shall not delete or overwrite any information that has been stored in the Virtual Library, except for the purposes of maintenance (provided no information is lost during maintenance) or to enable the Supplier to comply with Data Protection Legislation.
- 6.13 The Supplier warrants that the information uploaded to the Virtual Library is accurate, complete, up-to-date and in accordance with this Agreement at the date of upload.

- 6.14 Where the Supplier becomes aware that any of the information provided on the Virtual Library is materially inaccurate, incomplete or out of date (other than in respect of historic versions of documents) the Supplier shall provide an update to the information within fourteen (14) days unless already due to be updated beforehand due to an Update Requirement specified in Annex 3.
- 6.15 In the event of a conflict between any requirement in this Agreement (excluding Annex 3) for the Supplier to provide information to the Director and the requirements set out in Annex 3 of this Schedule, the requirement elsewhere in this Agreement shall prevail.
- 6.16 The Supplier shall ensure that all approved users of the Virtual Library are alerted by email each time that information in the Virtual Library is uploaded or updated as it occurs.
- 6.17 No later than one (1) month prior to the Operational Services Commencement Date, the Supplier shall provide training manuals to the Director relating to the use of the Virtual Library.
- 6.18 On request by the Director the Supplier shall provide the Director's nominated users with a reasonable level of training and ongoing support to enable them to make use of the Virtual Library.
- 6.19 For the avoidance of doubt, the cost of any redactions, access restrictions or compliance with the Data Protection Legislation in respect of the information hosted on the Virtual Library shall be at the Supplier's own cost and expense.

## ANNEX 1: TRANSPARENCY REPORTS

TITLE	CONTENT	FORMAT	FREQUENCY
<i>Charges</i>	To be agreed with the Director to include contract price and incentivisation mechanisms in the Agreement	To be agreed with the Director	Quarterly
<i>Major sub-contractors</i>	To be agreed with the Director to include status of Sub-contractors including those for supply chains where significant contract value/critical activity rests with Sub-contractors	To be agreed with the Director	Quarterly
<i>Technical</i>	To be agreed with the Director to include resource plans and utilisation against forecast Service improvement plans	To be agreed with the Director	Quarterly
<i>Performance management</i>	To be agreed with the Director to include reporting on performance against performance metrics and plans for management of underperformance	To be agreed with the Director	Monthly
<i>Social value</i>	Reporting on performance against social value obligations	To be agreed with the Director	Quarterly
<i>Living Wage</i>	Reporting on compliance with Clause 14.10 and 14.11	To be agreed with the Director	Annual
<i>Supplier Index</i>	Reporting on performance in Supplier Index	To be agreed with the Director	Annual
<i>Customer Satisfaction Index</i>	Reporting on performance in Customer Satisfaction Index	To be agreed with the Director	Annual

## ANNEX 2: RECORDS TO BE KEPT BY THE SUPPLIER

The records to be kept by the Supplier are:

- 1 This Agreement, its Schedules and all amendments to such documents.
- 2 All other documents which this Agreement expressly requires to be prepared.
- 3 Records relating to the appointment and succession of the Supplier Representative and each member of the Key Personnel.
- 4 Notices, reports and other documentation submitted by any Expert.
- 5 All operation and maintenance manuals prepared by the Supplier for the purpose of maintaining the provision of the Services and the underlying IT Environment and Supplier Equipment.
- 6 Documents prepared by the Supplier or received by the Supplier from a third party relating to a Force Majeure Event.
- 7 All formal notices, reports or submissions made by the Supplier to the Director Representative in connection with the provision of the Services.
- 8 All certificates, licences, registrations or warranties in each case obtained by the Supplier in relation to the provision of the Services.
- 9 Documents prepared by the Supplier in support of claims for the Charges.
- 10 Documents submitted by the Supplier pursuant to the Change Control Procedure.
- 11 Documentary evidence of any improvements made to the Supplier's internal systems and/or processes in accordance with Paragraph 5.5 of Schedule 8.8 (*Continuous Improvement*).
- 12 Documents submitted by the Supplier pursuant to invocation by it or the Director of the Dispute Resolution Procedure.
- 13 Documents evidencing any change in ownership or any interest in any or all of the shares in the Supplier and/or the Guarantor, where such change may cause a change of Control; and including documents detailing the identity of the persons changing such ownership or interest.
- 14 Documents relating to any Embedded Leases and sufficient associated information in order to enable the capital impact of such lease or asset to be quantified.
- 15 Invoices and records related to VAT sought to be recovered by the Supplier.
- 16 Financial records, including audited and un-audited accounts of the Guarantor and the Supplier.
- 17 Records required to be retained by the Supplier by Law, including in relation to health and safety matters and health and safety files and all consents.
- 18 All documents relating to the insurances to be maintained under this Agreement and any claims made in respect of them.
- 19 All journals and audit trail data referred to in Schedule 2.4 (*Security Management Plan*).
- 20 Collected logs in relation to the Services (including but not limited to the Contact Centre), together with all data associated with monitoring, including, but not limited to records of human analysis of incidents and response steps, such records to be retained for a period as agreed by the Director depending on record type and made available online for ninety (90) days.

- 21 All audit trail data referred to in Schedule 7.6, Part 1 (*Regulatory Compliance and Financial Crime - Compliance*) regarding compliance risks.
- 22 All audit trail data and metadata relating to the creation, amendment and issue of content and messages.
- 23 All audit trail data for Assisted Digital transactions conducted by Contact Centre personnel.
- 24 Where available, root cause information in respect of all complaints received in accordance with Schedule 7.1, Part 4 (*Compensation and Goodwill Payments*).
- 25 A bank of all electronic and printed documents approved by the Director for use in customer communications.
- 26 All other records, notices or certificates required to be produced and/or maintained by the Supplier pursuant to this Agreement.

### ANNEX 3: RECORDS TO UPLOAD TO VIRTUAL LIBRARY

Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
CI 5.6.5, 5.6.6, 17.1.1	Documentation	As appropriate and agreed by the Director	Within seven (7) days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable	-	Director
CI 17.2.1(b)	Source Code and Object Code	Clause 17.2.1(b)	Within seven (7) days of the issue of a Milestone Achievement Certificate	-	Director
CI 14.3	Key Personnel	Sch 9.2	Effective Date	On replacement of Key Personnel	Director
Sch 2.1, Requirement ID PPCL2-SIAM-025	Future project activity information to enable assessment and scheduling of test environment availability	As appropriate and agreed by the Director	Effective Date	As required and when updated	Director
Sch 2.1, Requirement ID PPCL2-INT-010	Data on journey performance across all channels and recommendations for improvements	As appropriate and agreed by the Director	Effective Date	Monthly	Director
Sch 2.2, Part 2 Para 1.2	Performance Monitoring Report	Sch 2.2, Part 2	Service Commencement	Within ten (10) Working Days of the end of each Service Period	Director
Sch 2.2, Part 2, Para 1.1	Dashboard data	As appropriate and agreed by the Director	On request	-	Director
Sch 2.2, Part 2, Para 3	Workarounds database	As appropriate and agreed by the Director	On deployment of a workaround	Any update	Director
Sch 2.3, Para 2.4	Demonstration of compliance with Standards	Sch 2.3, Para 2.4	Operational Service Commencement Date	Annually	Director
Sch 2.4, Para 4.2	Core Information Management System diagram	As appropriate and agreed by the Director	The date specified in the Detailed Implementation Plan	Regular review and at least annually	Director

<b>Applicable Clause/ Paragraph</b>	<b>Required Data</b>	<b>Format of Data</b>	<b>Initial Upload Date</b>	<b>Update Requirement</b>	<b>Access Permission and Access Event (where applicable)</b>
Sch 2.4, Para 8.1, 8.3, 8.6	Security certificates	Sch 2.4, Annex 3	Prior to receiving, storing or processing any Director Data	-	-
Sch 2.5, Para 3	Evidence of Insurances	Sch 2.5	Effective Date	Within fifteen (15) days after policy renewal or replacement	Director
CI 24	Commercially Sensitive Information	Sch 4.2	Effective Date	Upon Agreement by the Director to vary the information	Director and/or Auditor
CI 15.10	Notified Key Sub-contractors	Sch 4.3	Effective Date	On replacement of Key Sub-contractor	Director
CI 15.9	Third Party Contracts	Sch 4.4	Effective Date	On appointment of Sub-contract	Director
CI 15.11	Notified Key Sub-Contractors	Sch 4.3	Effective Date	With each approved appointment or variation	Director
CI 15.24	Supply chain Transparency Information Reports	Sch 8.4, Annex 4	Thirty (30) days prior to the end of each financial year	Every twelve (12) months	Director
CI 16.4, 16.5, 17.2	Software	Sch 5	Operational Services Commencement Date	Upon Agreement by the Director to vary the information	Director
CI 6.4	Detailed Implementation Plan	Sch 6.1	Within twenty (20) Working Days of Effective Date	Every three (3) months from Effective Date	Director
Sch 6.2, Para 4.1	Test Strategy	As appropriate and agreed by the Director	Within thirty (30) Working Days of Effective Date	Upon update to the test strategy	Director
Sch 6.2, Para 5.1	Test Plan	As appropriate and agreed by the Director	Twenty (20) prior Working Days of relevant test	Upon update to the test plan	Director
Sch 6.2, Para 7.1	Test Specification	As appropriate and agreed by the Director	Ten (10) prior Working Days of relevant test	Upon update to the test specification	Director
Sch 6.2, Para 8.5	Test Report	As appropriate and agreed by the Director	Two (2) Working Days prior to the date on which the test is	Reissue with each re-test	Director

Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
			planned to end for the Draft Test Report  Five (5) days for the Final Test Report following the relevant test completion		
Sch 7.1, Part 3, Para 8	Volume Forecasting Report	Sch 7.1, Part 3, Para 8.3	Three (3) months prior to the first Operational Service Commencement Date	Monthly	Director
Sch 7.1, Part 5, Para 1.2	Template Invoice	As appropriate and agreed by the Director	Within ten (10) Working Days of the Effective Date	Upon Agreement by the Director to vary the template	Director
Sch 8.1 para 10.3	Risk Register	As appropriate and agreed by the Director	Effective Date	Upon Agreement by the Director to vary by the Risk Management Committee	Director
Sch 7.3, Para 4	Benchmarking Plan	Sch 7.3	Upon receipt from Benchmarkers	Approval of Plan	Director and Auditor
Sch 7.3, Para 5	Benchmarking report	Sch 7.3	Upon receipt from Benchmarkers	Any update	Director and Auditor
Sch 7.4, Para 2.3.2	Financial Indicator Reports	Sch 7.4, Para 2.5	As specified in Para 2.3.2 of Sch 7.4	As specified in Para 2.3.2 of Sch 7.4	Director
Sch 7.4, Para 4.3.2	Financial Distress Remediation Plan	As appropriate and agreed by the Director	As soon as reasonably practicable and in any event within ten (10) Working Days of initial notification or awareness of a Financial Distress Event	On a regular basis (not less than fortnightly)	Director
Sch 7.4, Para 8	Board Confirmation	As set out at Annex 4 of Sch 7.4	Within one hundred and twenty (120) days of the first Accounting	Within fifteen (15) months of the previous Board Confirmation provided or within one	Director



Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
			Reference Date to occur	hundred and twenty (120) days after each Accounting Reference Date (whichever is the earlier)	
Sch 7.5, Part 1, Para 3	Onerous Contract Report (where applicable)	Sch 7.5, Part 1, Para 3.1	Within two (2) months following publication of the designation as an Onerous Contract	-	Director
Sch 7.5, Part 2, Para 1.1.1	Contract Inception Report	Sch 7.1, Annex 1	Effective Date	-	Director
Sch 7.5, Part 2, Para 1.1.2	Contract Amendment Report	Sch 7.5, Part 2, Para 1.2	Within one (1) month of a material change being agreed	-	Director
Sch 7.5, Part 2, Para 1.1.2	Quarterly Contract Report	Sch 7.5, Part 2, Para 1.2	Within one (1) month of the end of each Quarter	-	Director
Sch 7.5, Part 2, Para 1.1,2	Annual Contract Report	Sch 7.5, Part 2, Para 1.2	Within one (1) month of the end of the Contract Year to which that report relates	-	Director
Sch 7.5, Part 2, Para 1.1,2	Final Reconciliation Report	Sch 7.5, Part 2, Para 1.2	Within six (6) months after the end of the Term	-	Director
Sch 7.5, Part 2, Para 1.1.2	Embedded Lease Report	Sch 7.5, Part 2, Para 1.1.2	Within one (1) month of a lease being identified as having a capital impact that needs to be quantified	-	Director
Sch 7.5, Part 4, Para 3.2	Risk Data	As appropriate and agreed by the Director	Effective Date	Any variation and at least monthly	Director
Sch 7.6, Part 1 Para 4.6	Reporting of issues relating to compliance risks	Sch 7.6, Part 1, Para 4.6	Within three (3) Working Days of such issue or risk being identified	-	Director

<b>Applicable Clause/ Paragraph</b>	<b>Required Data</b>	<b>Format of Data</b>	<b>Initial Upload Date</b>	<b>Update Requirement</b>	<b>Access Permission and Access Event (where applicable)</b>
Sch 7.6, Part 1, Para 5.1	Reporting on breaches of Director Requirements and breaches of an operational or systemic impact	Sch 7.6, Part 1, Para 4.1	Immediately or in any case within twenty four (24) hours of a breach, for breaches of Director's Requirements and any that cause an operational or systemic impact	-	Director
Sch 7.6, Part 1, Para 5.3	Reporting on regulatory breaches	As appropriate and agreed by the Director	Effective Date	Monthly	Director
Sch 8.2, Para 9.3	Impact Assessment Estimate	As appropriate and agreed by the Director	Within ten (10) Working Days of date of receiving change request	-	Director
Sch 8.2, Para 9.5	Impact Assessment	As appropriate and agreed by the Director	Within the period agreed by the Impact Assessment Estimate	Within ten (10) Working Days of request by the Director to update under Schedule 8.2 Para 5.4	Director
Sch 8.2, Para 12.3	Agreement Amendment and copy of annotated version illustrating changes	PDF and MS Word (editable)	Signature of Variation Date	Any variation	Director
Sch 8.2, Para 11.3	Change Authorisation Note	Sch 8.2, Annex 2	Following receipt by the Supplier of the Change Authorisation Note, it shall sign both copies and return one copy to the Director	-	Director
Sch 8.3, Para 2.1	Dispute Notice	Sch 8.3, Para 2.1	No longer than twenty (20) Working Days from an unresolved dispute arising	Any variation	Director
Sch 8.4, Para 1	Reports and Records Provisions	Sch 8.4, Annex 1	Within three (3) months of the Effective Date	Frequency specified in Sch 8.4, Annex 1	Director

<b>Applicable Clause/ Paragraph</b>	<b>Required Data</b>	<b>Format of Data</b>	<b>Initial Upload Date</b>	<b>Update Requirement</b>	<b>Access Permission and Access Event (where applicable)</b>
Sch 8.4, Para 4	Knowledge and Insight Function data	As appropriate and agreed by the Director	Effective Date	-	Director
Sch 8.5, Para 2.1.1	Register of All Assets, Sub-contracts and Other Relevant Agreements	As appropriate and agreed by the Director	Within three (3) months of the Effective Date	Any variation	Director
Sch 8.5, Para 2.1.2	Configuration Database of Technical Infrastructure and Operating Procedures and any Changes	As appropriate and agreed by the Director	Within three (3) months of the Effective Date	Any variation and at least annually	Director
Sch 8.5, Para 3.1	Exit Information	As appropriate and agreed by the Director	On reasonable notice given by the Director at any point during the Term	Within ten (10) Working Days of Director's written request	Director and its potential Replacement Suppliers
Sch 8.5, Para 4.1	Exit Plan	Sch 8.5, Para 4.3	Within three (3) months of the Effective Date	<p>In the first month of each contract year; and</p> <p>Within fourteen (14) days following a Financial Distress Event, within three (3) months of on-boarding of a Relevant Third Party Supplier or as otherwise requested by the Director; and</p> <p>Within twenty (20) days after service of Termination Notice or six (6) months prior to expiry of the Agreement</p>	Director
Sch 8.5, Para 5.8.2	Director Data (handback)	Sch 8.4, Para 5 and/or as appropriate and agreed by the Director	At the end of the Termination Assistance Period	-	Director

<b>Applicable Clause/ Paragraph</b>	<b>Required Data</b>	<b>Format of Data</b>	<b>Initial Upload Date</b>	<b>Update Requirement</b>	<b>Access Permission and Access Event (where applicable)</b>
Sch 8.5, Annex 1	Termination Services supporting documentation and knowledge transfer material	As appropriate and agreed by the Director	As specified in the Termination Assistance Notice and in any event prior to the end of the Termination Assistance Period	As specified in the Termination Assistance Notice or otherwise requested by the Director	-
Sch 8.6, Part 1, Para 2	BIA Report	Sch 8.6, Part 1, Para 2.1	Within forty (40) days from the Effective Date	Annually on anniversary of Operational Service Commencement Date, and following a material Change	Director
Sch 8.6, Part 1, Para 3.1	Service Continuity Plan	Sch 8.6, Part 1, Para 3	Within ten (10) Working Days of Director approving BIA Report, and in any event at least six (6) weeks prior to the Operational Service Commencement Date	Sch 8.6, Para 8.1	Director
Sch 8.6, Part 1, Para 4.8	Reporting on compliance with FCA guidance on operational resilience	As appropriate and agreed by the Director	Sch 8.6, Part 1, Para 4.8	Quarterly	Director
Sch 8.6, Part 1, Para 6.3	Reporting on Disaster recovery activities	As appropriate and agreed by the Director	In event of a Disaster	Daily until returned to full Service resilience	Director
Sch 8.6, Part 1, Para 8.2	Service Continuity Plan Review Report	Sch 8.6, Part 1, Para 8.2	Within twenty (20) Working Days of the conclusion of each review of the Service Continuity Plan	-	-
Sch 8.6, Part 1, Para 9.5	Service Continuity Plan test report	Sch 8.6, Part 1, Para 9.5	Within twenty (20) Working Days of the conclusion of each test	-	Director
Sch 8.6	Corporate Resolution Planning Information	Sch 8.6, Part 2, Para 2	Sch 8.6, Part 2, Para 2.2	Sch 8.6, Part 2, Para 2.8	Director

<b>Applicable Clause/ Paragraph</b>	<b>Required Data</b>	<b>Format of Data</b>	<b>Initial Upload Date</b>	<b>Update Requirement</b>	<b>Access Permission and Access Event (where applicable)</b>
Sch 8.8, Para 4.1	Initiatives for Continuous Improvement Plan	Sch 8.8, Para 4.3	Within three (3) months of the first Operational Service Commencement Date	At least annually	Director
Sch 8.8, Para 4.1	Actionable Insight and product roadmap	As appropriate and agreed by the Director	As agreed with the Director	As agreed with the Director	Director
Sch 8.8, Para 6.3	Improvements to Supplier systems and processes	As appropriate and agreed by the Director	As identified	Upon any change	Director
Sch 9.1, Part 5, Para 1.1	Supplier's Provisional Supplier Personnel List and, Staffing Information	As appropriate and agreed by the Director	Sch 9.1, Part 5, Para 1.1	At such intervals as are reasonably requested by the Director	Director
Sch 9.1, Part 5, Para 1.2	Supplier's Final Supplier Personnel List	As appropriate and agreed by the Director	At least twenty (20) Working Days prior to the Service Transfer Date	Upon any material change to the list of employees	Director and, at the discretion of the Director, the Replacement Supplier and/or any Replacement Sub-contractor
Sch 9.1, Part 5, Para 1.6	Information relating to the manner in which the services are organised	As appropriate and agreed by the Director	Effective Date	-	Director
Sch 9.1, Part 5, Para 1.7	Payroll and benefits information	As appropriate and agreed by the Director	Within five (5) Working Days following the Service Transfer Date	-	Director, any Replacement Supplier and/or Replacement Sub-contractor
Sch 9.1, Annex E1	List of Notified Sub-contractors	As appropriate and agreed by the Director	Effective Date	Upon any change	Director
Sch 9.2	Key Personnel	Sch 9.2	Effective Date	As amended from time to time	Director
CI 25.9	Reports on Data Subject Access Requests	As appropriate and agreed by the Director	As agreed with Director	As agreed with Director	Director and Supplier

#### ANNEX 4: SUPPLY CHAIN TRANSPARENCY INFORMATION TEMPLATE

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

## SCHEDULE 8.5 - EXIT MANAGEMENT

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**Emergency Exit** means any termination of this Agreement which is a:

- (a) termination of the whole or part of this Agreement in accordance with Clause 35 (*Termination Rights*), except where the period of notice given under that Clause is greater than or equal to six (6) months;
- (b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause 35 (*Termination Rights*); or
- (c) wrongful termination or repudiation of this Agreement by either Party.

**Exclusive Assets** means those Assets used by the Supplier or a Key Sub-contractor which are used exclusively in the provision of the Services.

**Exit Information** has the meaning given in Paragraph 3.1.

**Exit Manager** means the person appointed by each Party pursuant to Paragraph 2.3 for managing the Parties' respective obligations under this Schedule.

**Net Book Value** means the net book value of the relevant Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Director of the same date as this Agreement.

**Non-Exclusive Assets** means those Assets (if any) which are used by the Supplier or a Key Sub-contractor in connection with the Services but which are also used by the Supplier or Key Sub-contractor for other purposes of material value.

**Ordinary Exit** means any termination of the whole or any part of this Agreement which occurs:

- (a) pursuant to Clause 35 (*Termination Rights*) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to six (6) months; or
- (b) as a result of the expiry of the Initial Term or any Extension Period.

**Registers** means the register and configuration database referred to in Paragraphs 2.1.1 and 2.1.2.

**Transferable Assets** means those of the Exclusive Assets which are capable of legal transfer to the Director.

**Transferable Contracts** means the Sub-contracts, licences for Supplier Software, licences for Third Party Software or other agreements which are necessary to enable the Director or any Replacement Supplier to perform the Services or the Replacement Services, including in relation to licences, all relevant Documentation.

**Transferring Contracts** has the meaning given in Paragraph 6.2.3.

### 2 OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

2.1 During the Term, the Supplier shall:

2.1.1 create and maintain a register of all:

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

2.1.2 create and maintain a configuration database detailing:

- (a) the technical infrastructure, high and low-level designs and operating procedures for each component of the Core Information System through which the Supplier provides the Services; and
- (b) high and low-level solution designs for each Change delivered pursuant to Schedule 8.2 (*Change Control Procedure*),

all of which shall contain sufficient detail to permit the Director and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;

2.1.3 agree the format of the Registers with the Director as part of the process of agreeing the Exit Plan; and

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

2.2 The Supplier shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Agreement.

2.3 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within three (3) months of the Effective Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-contractors comply with this Schedule. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Agreement and all matters connected with this Schedule and each Party's compliance with it.

### **3 OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES**

3.1 On reasonable notice at any point during the Term, the Supplier shall provide to the Director and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Director of any ITT and/or to facilitate any potential Replacement Suppliers undertaking due diligence:

3.1.1 details of the Service(s);

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



- 3.1.3 an inventory of Director Data in the Supplier's possession or control;
  - 3.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
  - 3.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;
  - 3.1.6 to the extent permitted by applicable Law, all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Agreement; and
  - 3.1.7 such other material and information as the Director shall reasonably require,
- (together, the “**Exit Information**”).

3.2 The Supplier acknowledges that the Director may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Director is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Director may not under this Paragraph disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-contractors' prices or costs).

3.3 The Supplier shall:

- 3.3.1 notify the Director within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Director regarding such proposed material changes; and
- 3.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Director.

3.4 The Supplier may charge the Director for its reasonable additional costs to the extent the Director requests more than four (4) updates in any six (6) month period.

3.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:

- 3.5.1 prepare an informed offer for those Services; and
- 3.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

## 4 EXIT PLAN

4.1 The Supplier shall, within three (3) months after the Effective Date, deliver to the Director an Exit Plan which:

- 4.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the relevant Services from the Supplier to the Director and/or its Replacement Supplier on the Partial Termination, expiry or termination of this Agreement;
- 4.1.2 complies with the requirements set out in Paragraph 4.3; and
- 4.1.3 is otherwise reasonably satisfactory to the Director.

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

- 4.3 The Exit Plan shall set out, as a minimum:
- 4.3.1 how the Exit Information is obtained;
  - 4.3.2 separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Director shall require to enable the Director or its sub-contractors to provide the Services;
  - 4.3.3 a mechanism for dealing with Partial Termination on the assumption that the Supplier will continue to provide the remaining Services under this Agreement;
  - 4.3.4 the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
  - 4.3.5 any dependencies or implications of exit on the Relevant Third Party Suppliers;
  - 4.3.6 the management structure to be employed during the Termination Assistance Period;
  - 4.3.7 a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
  - 4.3.8 how the Services will transfer to the Replacement Supplier and/or the Director, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Director's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);
  - 4.3.9 the scope of the Termination Services that may be required for the benefit of the Director (including such of the services set out in Annex 1 as are applicable);
  - 4.3.10 a timetable and critical issues for providing the Termination Services;
  - 4.3.11 any charges that would be payable for the provision of the Termination Services (calculated in accordance with the methodology that would apply if such Services were being treated as a Contract Change), together with a capped estimate of such charges;
  - 4.3.12 how the Termination Services would be provided (if required) during the Termination Assistance Period, including an indication of arrangements in place to ensure ability to provide any Termination Services in the event of an Insolvency Event in accordance with Paragraph 5.4, with reference to the Insolvency Continuity Plan under Part D of Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*);
  - 4.3.13 procedures to deal with requests made by the Director and/or a Replacement Supplier for Staffing Information pursuant to Schedule 9.1 (*Staff Transfer*); and
  - 4.3.14 how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Director with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.
- 4.4 The Parties acknowledge that the migration of the Services from the Supplier to the Director and/or its Replacement Supplier may be phased, such that certain of the Services are handed over before others.
- 4.5 The Supplier shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year), within fourteen (14) days of the occurrence of the a Financial Distress Event,

within three (3) months of the onboarding of a Relevant Third Party Supplier or as otherwise requested by the Director to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Supplier shall submit the revised Exit Plan to the Director for review. Within twenty (20) Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that twenty (20) Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

#### **Finalisation of the Exit Plan**

- 4.6 Within twenty (20) Working Days after service of a Termination Notice by either Party or twelve (12) months prior to the expiry of this Agreement, the Supplier will submit for the Director's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.
- 4.7 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days following its delivery to the Director then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

### **5 TERMINATION SERVICES**

#### **Notification of Requirements for Termination Services**

- 5.1 The Director shall be entitled to require the provision of Termination Services at any time during the Term by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) months prior to the date of termination or expiry of this Agreement, as soon as reasonably practicable (but in any event, not later than one (1) month) following the service by either Party of a Termination Notice, or immediately where termination is as the result of an Insolvency Event. The Termination Assistance Notice shall specify:
- 5.1.1 the date from which Termination Services are required;
  - 5.1.2 the nature of the Termination Services required; and
  - 5.1.3 the period during which it is anticipated that Termination Services will be required, which shall continue no longer than twenty-four (24) months after the date that the Supplier ceases to provide the terminated Services.
- 5.2 For the avoidance of doubt, the Termination Services may include a requirement to continue to deliver the Services, provided that this does not continue longer than twenty-four (24) months after the date:
- 5.2.1 identified in the Termination Notice for termination; or
  - 5.2.2 the Agreement was due to expire,
- as applicable.
- 5.3 The Director shall have:
- 5.3.1 an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than twenty (20) Working Days prior to the date on which the provision of Termination Services is otherwise due to expire; and

5.3.2 the right to terminate its requirement for Termination Services by serving not less than twenty (20) Working Days' written notice upon the Supplier to such effect.

5.4 For the avoidance of doubt, the obligation to provide Termination Services under Paragraph 5.1 in the event of an Insolvency Event shall not relieve the Supplier of the obligation to comply with the provisions of Part D of Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*).

#### **Termination Assistance Period**

5.5 Throughout the Termination Assistance Period, or such shorter period as the Director may require (or, where applicable, subject to Paragraph 5.4), the Supplier shall:

5.5.1 continue to provide the Services (as applicable) and, if required by the Director pursuant to Paragraph 5.1, provide the Termination Services;

5.5.2 in addition to providing the Services and the Termination Services, provide to the Director any reasonable assistance requested by the Director to allow the Services to continue without interruption following the Partial Termination, termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Director and/or its Replacement Supplier;

5.5.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 5.5.2 without additional costs to the Director;

5.5.4 provide the Services and the Termination Services at no detriment to the Target Performance Levels, save to the extent that the Parties explicitly agree otherwise; and

5.5.5 at the Director's request and on reasonable notice, deliver up-to-date Registers to the Director.

5.6 Without prejudice to the Supplier's obligations under Paragraph 5.5.3, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 5.5.3 without additional costs to the Director, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.

#### **Termination Obligations**

5.7 The Supplier shall comply with all of its obligations contained in the Exit Plan in respect of any Partial Termination or termination.

5.8 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule) in respect of the Services that have been terminated, the Supplier shall:

5.8.1 cease to use the Director Data;

5.8.2 provide the Director and/or the Replacement Supplier with a complete and uncorrupted version of the Director Data in electronic form (or such other format as reasonably required by the Director);

5.8.3 retain the Director Data for six (6) months following the Termination Date or Termination Assistance Period, whichever is later, and thereafter as soon as reasonably possible delete from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period, all Director Data in accordance with Schedule 2.4 (*Security Management*) or otherwise in accordance with the Director's instructions, and promptly certify to the Director that it has completed such deletion;

- 5.8.4 return to the Director such of the following as is in the Supplier's possession or control:
- (a) all copies of the Director Software and any other software licenced by the Director to the Supplier under this Agreement;
  - (b) all materials created by the Supplier under this Agreement in which the IPRs are owned by the Director;
  - (c) any parts of the IT Environment and any other equipment which belongs to the Director;
  - (d) all Specially Written Software and Project Specific IPR; and
  - (e) any items that have been on-charged to the Director, such as consumables;
- 5.8.5 vacate any Director Premises unless access is required to continue to deliver the Services;
- 5.8.6 provide access during normal working hours to the Director and/or the Replacement Supplier for up to twelve (12) months after the Partial Termination, expiry or termination of this Agreement to:
- (a) such information relating to the Services as remains in the possession or control of the Supplier; and
  - (b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Director and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this Paragraph 5.8.6(b).
- 5.9 Upon Partial Termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Services or for statutory compliance purposes.
- 5.10 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the Director to the Supplier in relation to the terminated Services shall be terminated with effect from the end of the Termination Assistance Period.

## **6 ASSETS, SUB-CONTRACTS AND SOFTWARE**

- 6.1 Following notice of termination or Partial Termination of this Agreement and during the Termination Assistance Period, the Supplier shall not, in respect of the terminated Services, without the Director's prior written consent:
- 6.1.1 terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Services or the Charges;
  - 6.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or
  - 6.1.3 terminate, enter into or vary any licence for Software in connection with the Services.
- 6.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to Paragraph 5.5.5, the Director shall provide written notice to the Supplier setting out:

- 6.2.1 which, if any, of the Transferable Assets the Director requires to be transferred to the Director and/or the Replacement Supplier in respect of the terminated Services (“**Transferring Assets**”);
- 6.2.2 which, if any, of:
  - (a) the Exclusive Assets that are not Transferable Assets; and
  - (b) the Non-Exclusive Assets,
 the Director and/or the Replacement Supplier requires the continued use of; and
- 6.2.3 which, if any, of Transferable Contracts the Director requires to be assigned or novated to the Director and/or the Replacement Supplier (the “**Transferring Contracts**”),

in order for the Director and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Director and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Director and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Director and/or its Replacement Supplier requires to provide the Services or Replacement Services.

- 6.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Director and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where:
  - 6.3.1 a Termination Payment is payable by the Director to the Supplier, in which case, payment for such Assets shall be included within the Termination Payment; or
  - 6.3.2 the cost of the Transferring Asset has been partially or fully paid for through the Charges at the time of expiry or termination of this Agreement, in which case the Director shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Charges.
- 6.4 Risk in the Transferring Assets shall pass to the Director or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Director or the Replacement Supplier (as appropriate) on payment for the same.
- 6.5 Where the Supplier is notified in accordance with Paragraph 6.2 or otherwise that the Director and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
  - 6.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Director) for the Director and/or the Replacement Supplier to use such Assets (with a right of sub-licence or assignment on the same terms); or failing which
  - 6.5.2 procure a suitable alternative to such Assets and the Director or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 6.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Director and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Director reasonably requires to effect this novation or assignment.
- 6.7 The Director shall:
  - 6.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

6.7.2 once a Transferring Contract is novated or assigned to the Director and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

6.8 The Supplier shall hold any Transferring Contracts on trust for the Director until such time as the transfer of the relevant Transferring Contract to the Director and/or the Replacement Supplier has been effected.

6.9 The Supplier shall indemnify the Director (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Director (and/or Replacement Supplier) pursuant to Paragraph 6.6 both:

6.9.1 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract; and

6.9.2 in relation to any matters arising after the date of assignment or novation of such Sub-contract where the loss, liability or cost arises as a result of the Supplier's failure to comply with Clauses 16 (*Intellectual Property Rights*) and/or Clause 17 (*Transfer and Licences Granted by the Supplier*).

## **7 SUPPLIER PERSONNEL**

7.1 The Director and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Schedule 9.1 (*Staff Transfer*) shall apply.

7.2 The Supplier shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Director and/or the Replacement Supplier.

7.3 During the Termination Assistance Period, the Supplier shall give the Director and/or the Replacement Supplier reasonable access to the Supplier Personnel to present the case for transferring their employment to the Director and/or the Replacement Supplier.

7.4 The Supplier shall immediately notify the Director or, at the direction of the Director, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.

7.5 The Supplier shall not for a period of twelve (12) months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Director and/or the Replacement Supplier, except that this Paragraph shall not apply where the employee, supplier or Sub-contractor applies in response to a public advertisement of a vacancy.

## **8 CHARGES**

8.1 During the Termination Assistance Period (or for such shorter period as the Director may require the Supplier to provide the Termination Services), the Director shall pay the Charges to the Supplier in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.

8.2 Where the Director requests an extension to the Termination Services beyond the Termination Assistance Period in accordance with Paragraph 5.3:

8.2.1 where more than six (6) months' notice is provided, the same rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable; and

8.2.2 where less than six (6) months' notice is provided, no more than 1.2 times the rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable.

8.3 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.

8.4 Except as otherwise expressly specified in this Agreement, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Director shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

## **9 APPORTIONMENTS**

9.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Director and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:

9.1.1 the amounts shall be annualised and divided by three hundred and sixty-five (365) to reach a daily rate;

9.1.2 the Director shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

9.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

9.2 Each Party shall pay (and/or the Director shall procure that the Replacement Supplier shall pay) any monies due under Paragraph 9.1 as soon as reasonably practicable.



## ANNEX 1: SCOPE OF THE TERMINATION SERVICES

1

- 1.1 The Termination Services to be provided by the Supplier shall include such of the following Services as the Director may specify:
- 1.1.1 continuing to deliver the Services in accordance with this Agreement;
  - 1.1.2 ceasing all non-critical Software changes (except where agreed in writing with the Director);
  - 1.1.3 notifying the Sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 1.1.4 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Director and/or the Replacement Supplier after the end of the Termination Assistance Period;
  - 1.1.5 delivering to the Director the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the twelve (12) month period immediately prior to the commencement of the Termination Services;
  - 1.1.6 providing details of work volumes and staffing requirements over the twelve (12) month period immediately prior to the commencement of the Termination Services;
  - 1.1.7 with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;
  - 1.1.8 providing the Director with any problem logs which have not previously been provided to the Director;
  - 1.1.9 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during and for a period of twelve (12) months after the Termination Assistance Period;
  - 1.1.10 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
  - 1.1.11 reviewing all Software libraries used in connection with the Services and providing details of these to the Director and/or the Replacement Supplier;
  - 1.1.12 providing assistance and expertise as necessary to support the Director and/or the Replacement Supplier develop the migration plan for business operations and Director Data to the Replacement Supplier, which may include migration approach, testing of plans, contingency options, and handling of historic or archived Director Data;
  - 1.1.13 providing all necessary support, equipment, tools, and Software such as data migration services and/or Automated Programming Interfaces, in order to enable and support the execution of the migration plan by the Director and/or Replacement Supplier;
  - 1.1.14 making available to the Director and/or the Replacement Supplier expertise to analyse training requirements and providing all necessary training for the use of tools by such staff as are nominated by the Director (acting reasonably) at the time of termination or expiry;
  - 1.1.15 assisting in establishing naming conventions for any new production site;

- 1.1.16 analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;
- 1.1.17 generating a computer listing of the Source Code of which makes up the Specially Written Software in a form and on media reasonably requested by the Director;
- 1.1.18 agreeing with the Director a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- 1.1.19 delivering copies of the production databases (with content listings) to the Director's and/or the Replacement Supplier's operations staff (on appropriate media) as reasonably requested by the Director;
- 1.1.20 assisting with the loading, testing and implementation of the production databases;
- 1.1.21 assisting in the execution of a parallel operation until the effective date of expiry or termination of this Agreement;
- 1.1.22 in respect of the maintenance and support of the Supplier System, providing historical performance data for the previous twelve (12) months or such time period as otherwise specified by the Director;
- 1.1.23 assisting in the execution of a parallel operation of the maintenance and support of the Supplier System until the end of the Termination Assistance Period or as otherwise specified by the Director (provided that these Services shall end on a date no later than the end of the Termination Assistance Period);
- 1.1.24 providing an information pack listing and describing the Services for use by the Director in the procurement of the Replacement Services;
- 1.1.25 answering all reasonable questions from the Director and/or the Replacement Supplier regarding the Services;
- 1.1.26 agreeing with the Director and/or the Replacement Supplier a plan for the migration of the Director Data to the Director and/or the Replacement Supplier;
- 1.1.27 providing access to the Director and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) months afterwards for the purpose of the smooth transfer of the Services to the Director and/or the Replacement Supplier:
  - (a) to information and documentation relating to the Transferring Services that is in the possession or control of the Supplier or its Sub-contractors (and the Supplier agrees and shall procure that its Sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
  - (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors; and
- 1.1.28 knowledge transfer services, including:
  - (a) transferring all training material and providing appropriate training to those Director and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Services;

- (b) providing for transfer to the Director and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and
- (c) providing the Supplier and/or the Replacement Supplier with access to such members of the Supplier's or its Sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors.

1.2 The Supplier shall:

- 1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.14 for agreement by the Director at the time of termination or expiry of this Agreement;
- 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.18, providing skills and expertise of a suitable standard; and
- 1.2.3 fully co-operate in the execution of the Director Data migration plan agreed pursuant to Paragraph 1.1.26, providing skills and expertise of a reasonably acceptable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Director and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Director and/or the Replacement Supplier.

1.4 The information which the Supplier shall provide to the Director and/or the Replacement Supplier pursuant to Paragraph 1.1.28 shall include:

- 1.4.1 copies of up-to-date procedures and operations manuals;
- 1.4.2 product information;
- 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Director and/or the Replacement Supplier;
- 1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Director pursuant to this Schedule;
- 1.4.5 information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
- 1.4.6 details of physical and logical security processes and tools which will be available to the Director; and
- 1.4.7 any relevant interface information.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and Suppliers) of the Replacement Supplier and/or the Director access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

- 1.5.1 any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 1.5 shall:
  - (a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and

- (b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Director deems reasonable; and
- 1.5.2 the Director and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

## SCHEDULE 8.6 - SERVICE CONTINUITY PLAN AND CORPORATE RESOLUTION PLANNING

### PART 1: SERVICE CONTINUITY PLAN

#### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**BIA Report** has the meaning given in Paragraph 2.2.

**Business Continuity Plan** has the meaning given in Paragraph 3.2.1(b).

**Business Continuity Services** has the meaning given in Paragraph 5.2.2.

**Business Impact Analysis** means the analysis of the risks, threats and vulnerabilities which the Supplier must provide to the Director on at least an annual basis and which, when approved by the Director, shall inform the Service Continuity Plan.

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

(a) Government Department; or

(b) Non-Ministerial Department.

**Disaster** means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for any period of time or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable for that period including where the unavailability is a result of an Force Majeure Event.

**Disaster Recovery Plan** has the meaning given in Paragraph 3.2.1(c).

**Disaster Recovery Services** means the services embodied in the processes and procedures for restoring the Services following the occurrence of a Disaster.

**Disaster Recovery System** means the system identified by the Supplier in the Supplier Solution which shall be used for the purpose of delivering the Disaster Recovery Services.

**Insolvency Continuity Plan** has the meaning given in Paragraph 3.2.1(d).

**Maximum Tolerable Period of Disruption** means the maximum recovery times for all elements of the Services.

**Recovery Point Objective** means the amount of data (expressed as time) that is lost on the occurrence of a Disaster.

**Recovery Time Objectives** means the timescales for the Services to be fully recovered, including business functions, systems and processes on the occurrence of a Disaster.

**Review Report** has the meaning given in Paragraphs 8.2.1 to 8.2.3.

**Service Continuity Plan** means the plan prepared pursuant to Paragraph 3 of this Schedule which incorporates the Business Continuity Plan, Disaster Recovery Plan and the Insolvency Continuity Plan.

#### 2 BUSINESS IMPACT ANALYSIS

2.1 Within forty (40) Working Days from the Effective Date and in any event at least twelve (12) weeks prior to the Operational Service Commencement Date the Supplier shall undertake a Business Impact

Analysis to identify risks, threats and vulnerabilities that may lead to potential loss of, or disruption to, the Services including:

- 2.1.1 analysis of all activities that support the Services;
  - 2.1.2 analysis of the recovery times for all Services, including business functions, systems and processes;
  - 2.1.3 the identification of business functions, systems and process that support the delivery of specific elements of the Services and their associated risks, threats and vulnerabilities;
  - 2.1.4 assessment of the impact of the loss of different elements of the Services, business functions, systems and processes with available mitigations measures, including the impact over time of loss or disruption, in order to comply with the Maximum Tolerable Period of Disruption of one (1) hour;
  - 2.1.5 failure or disruption scenarios and assessments and estimates of frequency of occurrence;
  - 2.1.6 identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
  - 2.1.7 identification of risks arising from the interaction of the Services with the services provided by a Relevant Third Party Supplier;
  - 2.1.8 identification of risks arising from an Insolvency Event of the Supplier, any Key Sub-contractors and/or Supplier Group member;
  - 2.1.9 scenarios which could cause degradation and the implications for differing Service elements;
  - 2.1.10 consequences of differing geographical location of operations, cost benefit analysis and dependencies;
  - 2.1.11 consequences of inability to access data;
  - 2.1.12 possible mitigation measures;
  - 2.1.13 the Service Continuity Plan testing and exercises programme planned for the upcoming year (incorporating testing for the individual elements of the Plan, including Disaster Recovery); and
  - 2.1.14 timeframes and order of priority for the full recovery of the Services and the associated Maximum Tolerable Period of Disruption (to be no longer than one (1) hour), including staged recovery.
- 2.2 The Supplier shall complete the Business Impact Analysis and submit a report setting out its findings (the "**BIA Report**") for the Director's approval no later than twelve (12) weeks prior to the Operational Service Commencement Date.
- 2.3 Following receipt of the BIA Report from the Supplier, the Director shall review and comment on the BIA Report as soon as reasonably practicable and notify the Supplier in writing that it approves or rejects the BIA Report no later than twenty (20) Working Days after the date on which it is first submitted to the Director. If the Director rejects the BIA Report, it shall inform the Supplier in writing of the reasons for its rejection and the Supplier shall then revise the BIA Report (taking reasonable account of the Director's comments) and shall re-submit a revised BIA Report to the Director for the Director's approval within twenty (20) Working Days of the date of the Director's notice of rejection. The provisions of this Paragraph shall apply again to any resubmitted BIA Report, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

- 2.4 The Supplier shall undertake a Business Impact Analysis annually, on each anniversary of the Operational Service Commencement Date, or additionally as may be determined by the Director, acting reasonably, and, following the implementation of any material Changes to the Services.
- 2.5 Each subsequent Business Impact Analysis shall be completed within four (4) weeks of its commencement and a BIA Report confirming all findings shall be submitted to the Director within six (6) weeks of commencement of the Business Impact Analysis.

### 3 SERVICE CONTINUITY PLAN

- 3.1 Within ten (10) Working Days from the completion of the Business Impact Assessment and the Director's approval of the BIA Report and in any event at least six (6) weeks prior to the Operational Service Commencement Date, the Supplier shall prepare and deliver to the Director for the Director's written approval a plan, incorporating all elements of the Business Impact Analysis, which shall detail the processes, policies (notwithstanding the obligation to comply with Schedule 2.3 (*Standards*)) and arrangements that the Supplier shall follow to:
- 3.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services (including where caused by an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member); and
- 3.1.2 the recovery of the Services in the event of a Disaster; and
- 3.1.3 the Director's requirements for the production, maintenance, testing and invocation of the Supplier's service continuity strategy and plans.
- 3.2 The Service Continuity Plan shall:
- 3.2.1 be divided into four parts:
- (a) Part A which shall set out general principles applicable to the Service Continuity Plan;
- (b) Part B which shall relate to business continuity (the "**Business Continuity Plan**");
- (c) Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**");
- (d) Part D which shall relate to an Insolvency Event of the Supplier, any Key Sub-contractors and/or any Supplier Group member (the "**Insolvency Continuity Plan**"); and
- 3.2.2 unless otherwise required by the Director in writing, be based upon and be consistent with the provisions of Paragraphs 4, 5, 6 and 7.
- 3.3 Following receipt of the draft Service Continuity Plan from the Supplier, the Director shall:
- 3.3.1 review and comment on the draft Service Continuity Plan as soon as reasonably practicable; and
- 3.3.2 notify the Supplier in writing that it approves or rejects the draft Service Continuity Plan no later than twenty (20) Working Days after the date on which the draft Service Continuity Plan is first delivered to the Director.
- 3.4 If the Director rejects the draft Service Continuity Plan:
- 3.4.1 the Director shall inform the Supplier in writing of its reasons for its rejection; and

- 3.4.2 the Supplier shall then revise the draft Service Continuity Plan (taking reasonable account of the Director's comments) and shall re-submit a revised draft Service Continuity Plan to the Director for the Director's approval within twenty (20) Working Days of the date of the Director's notice of rejection. The provisions of Paragraph 3.3 and this Paragraph 3.4 shall apply again to any resubmitted draft Service Continuity Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

#### **4 SERVICE CONTINUITY PLAN: PART A – GENERAL PRINCIPLES AND REQUIREMENTS**

##### **4.1 Part A of the Service Continuity Plan shall:**

- 4.1.1 set out how the business continuity, disaster recovery and insolvency continuity elements of the Service Continuity Plan link to each other;
- 4.1.2 provide details of how the invocation of any element of the Service Continuity Plan may impact upon the operation of the Services and any services provided to the Director by a Relevant Third Party Supplier;
- 4.1.3 contain an obligation upon the Supplier to liaise with the Director and (at the Director's request) any Relevant Third Party Supplier with respect to issues concerning business continuity, disaster recovery and insolvency continuity where applicable and for the Supplier to provide support in the event of a Relevant Third Party Supplier invoking their own service continuity plans, to ensure the ongoing availability of the End to End Service;
- 4.1.4 detail how the Service Continuity Plan links and interoperates with any overarching and/or connected disaster recovery, business continuity and/or insolvency continuity plan of the Director and any of its other Relevant Third Party Suppliers in each case as notified to the Supplier by the Director from time to time;
- 4.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Director;
- 4.1.6 contain a copy of the then current, Director-approved Business Impact Analysis pursuant to Paragraph 2 above;
- 4.1.7 provide for documentation of processes, including business processes, and procedures;
- 4.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-contractors) and for the Director;
- 4.1.9 identify the procedures for reverting to “normal service”;
- 4.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity, including validating that backups are free from malicious software;
- 4.1.11 identify the responsibilities (if any) that the Director has agreed it will assume in the event of the invocation of the Service Continuity Plan; and
- 4.1.12 provide for the provision of technical advice and assistance to key contacts of the Director as notified by the Director from time to time to inform decisions in support of the Director's business continuity plans.

##### **4.2 The Service Continuity Plan shall be designed so as to ensure that:**



- 4.2.1 the Services are provided in accordance with this Agreement at all times during and after the invocation of the Service Continuity Plan;
  - 4.2.2 the adverse impact of any Disaster, Service failure, an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member, or disruption on the operations of the Director, is minimal as far as reasonably possible;
  - 4.2.3 it complies with the relevant provisions of ISO/IEC 22301 and all other industry standards from time to time in force;
  - 4.2.4 there is a process for the management of disaster recovery testing detailed in the Service Continuity Plan;
  - 4.2.5 the Service Continuity Plan is fully integrated with relevant Sub-contractors' disaster recovery and business continuity plans; and
  - 4.2.6 align with any supporting operational incident management procedures and documentation and include cross-references to such documentation.
- 4.3 The Supplier shall ensure that the Service Continuity Plans are up to date and cover all aspects of the Services whether undertaken in the United Kingdom or from an alternative location. The Supplier shall ensure that the Service Continuity Plans are updated to take account of any Changes including any resulting from each Business Impact Analysis in accordance with Paragraph 2.
- 4.4 The Service Continuity Plan shall be upgradeable and sufficiently flexible to support any changes to the Services, to the business processes facilitated by and the business operations supported by the Services, and/or changes to the Supplier Group structure and to ensure that any Changes to the Services (including to organisational functions, processes and systems) will not weaken the Service Continuity Plan management arrangements, unless the Director provides express prior written consent, having been given full knowledge and an associated written impact assessment from the Supplier.
- 4.5 The Service Continuity Plan shall be available for review by the Director immediately upon the Director's request.
- 4.6 Unless otherwise agreed by the Director, all communications issued during the occurrence of a Disaster or other event requiring invocation of the Service Continuity Plan shall be agreed with the Director prior to issue.
- 4.7 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Agreement.
- 4.8 The Supplier shall give assurance to the Director on how it meets and complies with the requirements set out in the Financial Conduct Authority's (FCA) guidance on operational resilience. The Supplier shall report to the Director on such compliance, in any event not less than every quarter and shall take the guidance into consideration when producing a new Business Impact Analysis under Paragraph 2.4 or reviewing the Service Continuity Plan under Paragraph 8.

## **5 SERVICE CONTINUITY PLAN: PART B – BUSINESS CONTINUITY**

### **PRINCIPLES AND CONTENTS**

- 5.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Director expressly states otherwise in writing:
- 5.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and

- 5.1.2 the steps to be taken by the Supplier upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.

5.2 The Business Continuity Plan shall:

- 5.2.1 address the various possible levels of failures of or disruptions to the Services;
- 5.2.2 set out the services to be provided, the timescales for each element of the Services to be fully recovered and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the “**Business Continuity Services**”);
- 5.2.3 set out the measures to ensure that the Recovery Time Objective is zero;
- 5.2.4 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Business Continuity Plan;
- 5.2.5 align with the Directors business continuity strategy, including its business continuity policy and ISO22301 (Business Continuity Management); and
- 5.2.6 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

**6 SERVICE CONTINUITY PLAN: PART C – DISASTER RECOVERY**

**PRINCIPLES AND CONTENTS**

- 6.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Director supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 6.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 6.3 In the event of a Disaster, the Supplier shall track and report daily on the activities undertaken to recover the Services to full Service resilience in accordance with Paragraph 6.4.7.
- 6.4 The Disaster Recovery Plan shall include the following:
  - 6.4.1 the technical design and build specification of the Disaster Recovery System;
  - 6.4.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
    - (a) data centre and disaster recovery site audits;
    - (b) backup methodology and details of the Supplier's approach to data back-up and data verification, to enable compliance with the Maximum Tolerable Period of Disruption and Recovery Point Objectives without any degradation to the provision of the live Services;
    - (c) identification of all potential disaster scenarios;
    - (d) risk analysis;
    - (e) documentation of processes and procedures;

- (f) hardware configuration details;
  - (g) network planning including details of all relevant data networks and communication links;
  - (h) invocation rules;
  - (i) Service recovery procedures; and
  - (j) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- 6.4.3 a clear list of those Services (if any) which the Supplier will relocate/recover on the occurrence of a Disaster, the proposed recovery location/strategy and timescales for relocation. The Supplier shall not relocate Services to any location unless the Director has approved such location in advance;
- 6.4.4 mapping of resources, people, technology and facilities required to deliver the Services within the Maximum Tolerable Period of Disruption of one (1) hour and applicable succession plans in the event of the loss of staff critical to delivery of the Services and cyber resilience;
- 6.4.5 any applicable Performance Indicators with respect to the provision of the Disaster Recovery Services, for the avoidance of doubt, the Supplier shall ensure a Recovery Point Objective of zero and shall guarantee transactions that are currently being processed by the Service;
- 6.4.6 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 6.4.7 details of how the Supplier will ensure a return to full Service resilience in the same state or better state as prior to the incident (including in terms of capacity and infrastructure) within a maximum of five (5) calendar days of the Disaster Recovery Plan being invoked together with a priority order of Services to be restored;
- 6.4.8 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 6.4.9 testing and management arrangements, including failover and recovery testing where required in addition to the obligations under Paragraph 9 (*Testing of the Service Continuity Plan*) below.

## **7 SERVICE CONTINUITY PLAN: PART D – INSOLVENCY CONTINUITY PLAN**

### **PRINCIPLES AND CONTENTS**

- 7.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Director supported by the Services through continued provision of the Services following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.
- 7.2 The Insolvency Continuity Plan shall include the following:
- 7.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Services, including key contact details in respect of the supply chain and key contact details for operational and contract Supplier Personnel, Key Sub-contractor personnel and Supplier Group member personnel;

- 7.2.2 identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Sub-contractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Services;
- 7.2.3 plans to manage and mitigate identified risks;
- 7.2.4 details of the roles and responsibilities of the Supplier, Key Sub-contractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Services;
- 7.2.5 details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Sub-contractors and Supplier Group members); and
- 7.2.6 sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.

## 8 REVIEW AND AMENDMENT OF THE SERVICE CONTINUITY PLAN

- 8.1 Notwithstanding and pursuant to the obligation under Paragraph 2.4, the Supplier shall review and update the Service Continuity Plan (incorporating the latest Business Impact Analysis and the risk analysis on which it is based):
  - 8.1.1 on a regular basis and as a minimum once every twelve (12) months;
  - 8.1.2 following the implementation of a Change;
  - 8.1.3 within three (3) calendar months of the Service Continuity Plan (or any part) having been invoked pursuant to Paragraph 10;
  - 8.1.4 within fourteen (14) days of a Financial Distress Event;
  - 8.1.5 within thirty (30) days of a Corporate Change Event; and
  - 8.1.6 where the Director requests any additional reviews (over and above those provided for in Paragraphs 8.1.1 to 8.1.5) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Director's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Director for the Director's approval. The costs of both Parties of any such additional reviews shall be met by the Director except that the Supplier shall not be entitled to charge the Director for any costs that it may incur above any estimate without the Director's prior written approval.
- 8.2 Each review of the Service Continuity Plan pursuant to Paragraph 8.1 shall be a review of the procedures and methodologies set out in the Service Continuity Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the Service Continuity Plan or the last review of the Service Continuity Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the Service Continuity Plan. The review shall be completed by the Supplier within the period required by the Service Continuity Plan or, if no such period is required, within such period as the Director shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the Service Continuity Plan, provide to the Director a report (a "**Review Report**") setting out:
  - 8.2.1 the findings of the review;
  - 8.2.2 any changes in the risk profile associated with the Services; and

- 8.2.3 the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the Service Continuity Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.
- 8.3 Following receipt of the Review Report and the Supplier's Proposals, the Director shall:
  - 8.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
  - 8.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Director.
- 8.4 If the Director rejects the Review Report and/or the Supplier's Proposals:
  - 8.4.1 the Director shall inform the Supplier in writing of its reasons for its rejection; and
  - 8.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Director's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Director for the Director's approval within twenty (20) Working Days of the date of the Director's notice of rejection. The provisions of Paragraph 8.3 and this Paragraph 8.4 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 8.5 The Supplier shall as soon as is reasonably practicable after receiving the Director's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

## 9 TESTING OF THE SERVICE CONTINUITY PLAN

- 9.1 The Supplier shall test the Service Continuity Plan including the Disaster Recovery Plan on a regular basis and in accordance with the then-current, agreed Business Impact Analysis (and in any event not less than twice in every Contract Year). Subject to Paragraph 9.2, the Director may require the Supplier to conduct additional tests of some or all aspects of the Service Continuity Plan at any time where the Director considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the Service Continuity Plan. The Supplier shall also test the Disaster Recovery Plan prior to the Operational Service Commencement Date or 'go live' of the Services and/or any Additional Services, and where required following a Change.
- 9.2 If the Director requires an additional test of the Service Continuity Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Director's requirements and the relevant provisions of the Service Continuity Plan. The Supplier's costs of the additional test shall be borne by the Director unless the Service Continuity Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 9.3 The Supplier shall undertake and manage testing of the Service Continuity Plan in full consultation with the Director and shall liaise with the Director in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Director in this regard. Each test shall be carried out under the supervision of the Director or its nominee.
- 9.4 The Supplier shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Director. Copies of live test data used in any such testing shall be (if so required by the Director) destroyed or returned to the Director on completion of the test.

- 9.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Director a report setting out:
- 9.5.1 the outcome of the test;
  - 9.5.2 any failures in the Service Continuity Plan (including the Service Continuity Plan's procedures) revealed by the test;
  - 9.5.3 lessons learned and a root cause analysis; and
  - 9.5.4 the Supplier's proposals for remedying any such failures, including a timetable for implementation.
- 9.6 Following each test, the Supplier shall take all measures requested by the Director (including requests for the re-testing of the Service Continuity Plan) to remedy any failures in the Service Continuity Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Director, by the date reasonably required by the Director and set out in the notice.
- 9.7 For the avoidance of doubt, the carrying out of a test of the Service Continuity Plan (including a test of the Service Continuity Plan's procedures) shall not relieve the Supplier of any of its obligations under this Agreement and the Supplier shall ensure that any testing or review shall not have any impact on the live environment.
- 9.8 The Supplier shall also perform a test of the Service Continuity Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Director.
- 9.9 Where the test identifies any gaps in the resilience and availability needs of the Services, the Supplier shall update the Service Continuity Plan accordingly and submit to the Director for review.
- 9.10 Where required by the Director, the Supplier shall participate in and support Disaster Recovery test exercises coordinated by the Director as part of the deployment of other service providers, including Relevant Third Party Suppliers.

## **10 INVOCATION OF THE SERVICE CONTINUITY PLAN**

- 10.1 In the event of a loss of any critical part of the Service or a Disaster, the Supplier shall immediately invoke the Business Continuity Plan and Disaster Recovery Plan provisions in the Service Continuity Plan, including any linked elements in other parts of the Service Continuity Plan, and shall inform the Director promptly of such invocation and in any event within one (1) hour of such event. In all other instances the Supplier shall invoke the Business Continuity Plan and Disaster Recovery Plan elements only with the prior consent of the Director.
- 10.2 The Insolvency Continuity Plan element of the Service Continuity Plan, including any linked elements in other parts of the Service Continuity Plan, shall be invoked by the Supplier:
- 10.2.1 where an Insolvency Event of a Key Sub-contractor and/or Supplier Group member (other than the Supplier) could reasonably be expected to adversely affect delivery of the Services; and/or
  - 10.2.2 where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

## **11 TRAINING AND AWARENESS**

- 11.1 The Supplier shall provide a formal training, awareness and educational learning programme on the Service Continuity Plan appropriate to individuals' roles in Service Continuity Plan arrangements, for all Supplier Personnel and at the Director's request for the Director's personnel. This programme shall include refresher training following each Business Impact Analysis or any material change to the Service Continuity Plan.

## **PART 2: CORPORATE RESOLUTION PLANNING**

### **1 Service Status and Supplier Status**

- 1.1 This Agreement 'is' a Critical Service Contract.
- 1.2 The Supplier shall notify the Director in writing within five (5) Working Days of the Effective Date and throughout the Term within one hundred and twenty (120) days after each Accounting Reference Date as to whether or not it is a Public Sector Dependent Supplier.

### **2 Provision of Corporate Resolution Planning Information**

- 2.1 Paragraphs 2 to 4 of this Part 2 shall apply if this Agreement has been specified as a Critical Service Contract under Paragraph 1.1 of this Part 2 or the Supplier is or becomes a Public Sector Dependent Supplier.
- 2.2 Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part 2:
  - 2.2.1 where this Agreement is a Critical Service Contract, the Supplier shall provide the Relevant Authority or Relevant Authorities with the CRP Information within sixty (60) days of the Effective Date; and
  - 2.2.2 except where it has already been provided in accordance with Paragraph 2.2.1 of this Part 2, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Relevant Authority or Relevant Authorities with the CRP Information within sixty (60) days of the date of the Relevant Authority's or Relevant Authorities' request.
- 2.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part 2:
  - 2.3.1 is full, comprehensive, accurate and up to date;
  - 2.3.2 is split into two parts:
    - (a) Group Structure Information and Resolution Commentary;
    - (b) UK Public Sector / CNI Contract Information,and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the Resolution Planning Guidance published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-outsourcing-playbook> and contains the level of detail required (adapted as necessary to the Supplier's circumstances);
  - 2.3.3 incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Authority or Relevant Authorities to understand and consider the information for approval;
  - 2.3.4 provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision in respect of UK Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and
  - 2.3.5 complies with the requirements set out at Annex 1 (*Group Structure Information and Resolution Commentary*) and Annex 2 (*UK Public Sector / CNI Contract Information*) respectively.
- 2.4 Following receipt by the Relevant Authority or Relevant Authorities of the CRP Information pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part 2, the Director shall procure that the Relevant Authority or

Relevant Authorities discuss in good faith the contents of the CRP Information with the Supplier and no later than sixty (60) days after the date on which the CRP Information was delivered by the Supplier either provide an Assurance to the Supplier that the Relevant Authority or Relevant Authorities approve the CRP Information or that the Relevant Authority or Relevant Authorities reject the CRP Information.

- 2.5 If the Relevant Authority or Relevant Authorities reject the CRP Information:
- 2.5.1 the Director shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and
  - 2.5.2 the Supplier shall revise the CRP Information, taking reasonable account of the Relevant Authority's or Relevant Authorities' comments, and shall re-submit the CRP Information to the Relevant Authority or Relevant Authorities for approval within thirty (30) days of the date of the Relevant Authority's or Relevant Authorities' rejection. The provisions of Paragraphs 2.3 to 2.5 of this Part 2 shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 2.6 Where the Supplier or a member of the Supplier Group has already provided CRP Information to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid on the date by which the CRP Information would otherwise be required, the Supplier shall not be required to provide the CRP Information under Paragraph 2.2 of this Part 2 if it provides a copy of the Valid Assurance to the Relevant Authority or Relevant Authorities on or before the date on which the CRP Information would otherwise have been required.
- 2.7 An Assurance shall be deemed Valid for the purposes of Paragraph 2.6 of this Part 2 if:
- 2.7.1 the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than twelve (12) months has elapsed since it was issued and no more than eighteen (18) months has elapsed since the Accounting Reference Date on which the CRP Information was based); and
  - 2.7.2 no Corporate Change Events or Financial Distress Events (or events which would be deemed to be Corporate Change Events or Financial Distress Events if this Agreement had then been in force) have occurred since the date of issue of the Assurance.
- 2.8 If this Agreement is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 2.8.3 of this Part 2 its initial CRP Information) to the Relevant Authority or Relevant Authorities:
- 2.8.1 within fourteen (14) days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 2.11 of this Part 2) unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 7.4 (*Financial Distress*);
  - 2.8.2 within thirty (30) days of a Corporate Change Event unless not required pursuant to Paragraph 2.10;
  - 2.8.3 within thirty (30) days of the date that:
    - (a) the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 2.10; or
    - (b) none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and



2.8.4 in any event, within six (6) months after each Accounting Reference Date or within fifteen (15) months of the date of the previous Assurance received from the Relevant Authority (whichever is the earlier), unless:

(a) updated CRP Information has been provided under any of Paragraphs 2.8.1, 2.8.2 or 2.8.3 since the most recent Accounting Reference Date (being no more than twelve (12) months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or

(b) unless not required pursuant to Paragraph 2.10.

2.9 Where the Supplier is a Public Sector Dependent Supplier and this Agreement is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 2.8.1 to 2.8.4 of this Part 2, the Supplier shall provide at the request of the Relevant Authority or Relevant Authorities and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the Supplier by the Director), the CRP Information to the Relevant Authority or Relevant Authorities.

2.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of either:

2.10.1 Aa3 or better from Moody's;

2.10.2 AA- or better from Standard and Poors; or

2.10.3 AA- or better from Fitch,

the Supplier will not be required to provide any CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 7.4 (*Financial Distress*)) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with Paragraph 2.8.

2.11 Subject to Paragraph 4 of this Part 2, where the Supplier demonstrates to the reasonable satisfaction of the Relevant Authority or Relevant Authorities that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Relevant Authority or Relevant Authorities, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no longer apply and the Supplier shall promptly provide the relevant information to the Relevant Authority or Relevant Authorities to the extent required under Paragraph 2.8.

### **3 Termination Rights**

3.1 The Director shall be entitled to terminate this Agreement under Clause 35.1 (*Termination by the Director*) if the Supplier is required to provide CRP Information under Paragraph 2 of this Part 2 and either:

3.1.1 the Supplier fails to provide the CRP Information within four (4) months of the Effective Date if this is a Critical Service Contract or otherwise within four (4) months of the Relevant Authority's or Relevant Authorities' request; or

3.1.2 the Supplier fails to obtain an Assurance from the Relevant Authority or Relevant Authorities within four (4) months of the date that it was first required to provide the CRP Information under this Agreement.

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

4.1 The Director agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.

- 4.2 Where the Relevant Authority is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Director shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Supplier containing terms no less stringent than those placed on the Director under Paragraph 4.1 of this Part 2 and Clause 23 (*Confidentiality*).
- 4.3 The Supplier shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Relevant Authority or Relevant Authorities pursuant to Paragraph 2 of this Part 2 subject, where necessary, to the Relevant Authority or Relevant Authorities entering into an appropriate confidentiality agreement in the form required by the third party.
- 4.4 Where the Supplier is unable to procure consent pursuant to Paragraph 4.3 of this Part 2, the Supplier shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:
- 4.4.1 redacting only those parts of the information which are subject to such obligations of confidentiality; and/or
  - 4.4.2 providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
    - (a) summarising the information;
    - (b) grouping the information;
    - (c) anonymising the information; and/or
    - (d) presenting the information in general terms.
- 4.5 The Supplier shall provide the Relevant Authority or Relevant Authorities with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Supplier is legally permitted to do so.

## **ANNEX 1: GROUP STRUCTURE INFORMATION AND RESOLUTION COMMENTARY**

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

## **ANNEX 2: UK PUBLIC SECTOR / CNI CONTRACT INFORMATION**

- 1 The Supplier shall:
  - 1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:
    - 1.1.1 are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
    - 1.1.2 are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in Paragraph 1.1.1 of this Annex 2 and where the member of the Supplier Group is acting as a key sub-contractor under the agreement with the end recipient; or
    - 1.1.3 involve or could reasonably be considered to involve CNI; and
  - 1.2 provide the Relevant Authority with a copy of the latest version of each underlying contract worth more than five million pounds (£5,000,000) per contract year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link.

## SCHEDULE 8.7 - CONDUCT OF CLAIMS

### 1 INDEMNITIES

- 1.1 This Schedule shall apply to the conduct, by a Party from whom an indemnity is sought under this Agreement (the “**Indemnifier**”), of claims made by a third person against a Party having (or claiming to have) the benefit of the indemnity (the “**Beneficiary**”).
- 1.2 If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Agreement (a “**Claim**”), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within ten (10) Working Days of receipt of the same.
- 1.3 Subject to Paragraph 2, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier’s own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to Paragraph 2.2, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.
- 1.4 With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:
- 1.4.1 the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
  - 1.4.2 the Indemnifier shall not bring the name of the Beneficiary into disrepute;
  - 1.4.3 the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and
  - 1.4.4 the Indemnifier shall conduct the Claim with all due diligence.
- 1.5 The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- 1.5.1 the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;
  - 1.5.2 the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within ten (10) Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or
  - 1.5.3 the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

### 2 SENSITIVE CLAIMS

- 2.1 With respect to any Claim which the Beneficiary, acting reasonably, considers is likely to have an adverse impact on the general public’s perception of the Beneficiary (a “**Sensitive Claim**”), the Indemnifier shall be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim only with the Beneficiary’s prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier

shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.

- 2.2 The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which Paragraph 1.3 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

### **3 RECOVERY OF SUMS**

- 3.1 If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:

- 3.1.1 an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and
- 3.1.2 the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

### **4 MITIGATION**

- 4.1 Each of the Director and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

## **SCHEDULE 8.8 – CONTINUOUS IMPROVEMENT**

### **1 INTRODUCTION**

#### **1.1 This Schedule:**

- 1.1.1 defines the process for the preparation and implementation of the Continuous Improvement Plan; and
- 1.1.2 identifies the process for the preparation and implementation of subsequent Continuous Improvement Plans for the on-boarding of subsequent providers.

### **2 CONTINUOUS IMPROVEMENT PLAN**

#### **2.1 The Director shall develop a Continuous Improvement Plan, using such input from the Supplier as:**

- 2.1.1 required by this Schedule and more specifically Paragraph 4 (*Scope and Responsibilities of the Supplier*); and
- 2.1.2 the Director may reasonably request,

in conjunction with the Initiatives provided from other sources, including from Relevant Third Party Suppliers. Notwithstanding the Supplier's input, priorities shall ultimately be set by the Director.

#### **2.2 Once finalised the Director will release a copy of the collated Continuous Improvement Plan to the Supplier and the Supplier shall comply with the provisions of this Schedule in respect of the Continuous Improvement Plan, in particular its obligation to continue to submit Initiatives under Paragraph 4.1. In the event that any element of the Continuous Improvement Plan is determined to contain Confidential Information of the Supplier or Relevant Third Party Supplier, the Continuous Improvement Plan shall be redacted as necessary prior to its release.**

#### **2.3 The Continuous Improvement Plan shall be maintained by the Director and reviewed at regular intervals, at least once in every Contract Year through the appropriate sub-committee with responsibility for Change in accordance with Schedule 8.1 (*Governance*).**

### **3 AIMS**

#### **3.1 The aims of the Continuous Improvement Plan are to:**

- 3.1.1 through the Supplier and the Services provided, improve the Director's effectiveness in achieving its strategic objectives;
- 3.1.2 continually align and re-align the Services to changing business needs by proactively identifying and implementing improvements to the Services and/or processes that support the Director's business processes and fundamental aims;
- 3.1.3 ensure resilience to change in the financial services marketplace and move in-step with market best-practice and customer expectations;
- 3.1.4 enhance collaboration with the Relevant Third Party Suppliers and the Director to support and improve the End to End Services provision and the overall customer experience;
- 3.1.5 share innovation and ideas across the End to End Service, including with the Relevant Third Party Suppliers and the Director;
- 3.1.6 draw upon the experience, knowledge and insight of the Supplier and Relevant Third Party Suppliers to identify opportunities for improvement;

- 3.1.7 maximise the value of the Services delivered to the Director;
  - 3.1.8 deliver measurable benefits in terms of efficiency;
  - 3.1.9 identify and pursue opportunities for cost reductions across the End to End Service;
  - 3.1.10 improve the flexibility and scalability of the End to End Service;
  - 3.1.11 deliver measurable benefits in the pace of Change; and
  - 3.1.12 drive change to meet Customer needs and improve Customer Satisfaction, as well as enhancing User and Customer experience in line with Good Industry Practice, the Supplier's solution and product roadmaps and the provision of Actionable Insight.
- 3.2 Problem resolution or other actions required to remedy shortcomings in Service delivery shall not be considered as continuous improvement, nor included as Initiatives in the Continuous Improvement Plan.
- 3.3 In contemplation of its obligation under Paragraph 4.1 of this Schedule, the Supplier shall comply with Clause 7.13 of Schedule 12 (*Collaboration Agreement*) through collaborative development of Initiatives.

#### **4 SCOPE AND RESPONSIBILITIES OF THE SUPPLIER**

- 4.1 In addition to the requirement for the Supplier to provide Actionable Insight at a pace required to drive the agreed cadence of delivery and to share updates and insights into the development of its product roadmaps, the Supplier shall have an ongoing obligation throughout the Term to identify new or potential Initiatives to the Services in accordance with this Paragraph 4. In meeting this requirement the Supplier shall within three (3) months of the first Operational Service Commencement Date provide an initial list of potential opportunities ("**Initiatives**"), and thereafter provide regular updates to the Continuous Improvement Plan and in any event at least once in every Contract Year.
- 4.2 Any Initiative submitted to the Director pursuant to Paragraph 4.1 shall be repurposed as a Change (and pursued as a Devops Change or, subject to Paragraph 4.3.3(c) a Change Request) if chosen for further consideration by the Director in accordance with Paragraph 5.2.
- 4.3 The Initiatives put forward by the Supplier pursuant to Paragraph 4.1 shall:
- 4.3.1 align with the Aims set out in Paragraph 3;
  - 4.3.2 include but not be limited to the following:
    - (a) the emergence of new and evolving relevant technologies which could improve the IT Environment and/or the Services, and those technological advances potentially available to the Supplier and the Director which the Parties may wish to adopt;
    - (b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and support services in relation to the Services;
    - (c) new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Director which might result in efficiency or productivity gains or in reduction of operational risk;
    - (d) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Director; and/or
    - (e) changes to the IT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services,



and

4.3.3 in order to enable the use of the Initiative as a Change pursuant to Paragraph 4.2, ensure the Initiative contains the following as a minimum:

- (a) has sufficient detail to enable the Director to understand the benefits to be derived from the Initiative;
- (b) the potential implications on Relevant Third Party Suppliers;
- (c) confirmation whether the Initiative could be developed as a Devops Change, the likely required Development Pool capacity required to deliver such a Change (as calculated by reference to Schedule 2.1 (*Service Description*)) or, if not, the reasons why the Initiative was not considered as one that could be developed as a Devops Change, the indication of which category of Change would be applicable and the likely costs (if any) of implementing the Initiative;
- (d) indication of timescale for implementation and alignment with any Changes scheduled, or due to be scheduled, for delivery pursuant to Schedule 8.2 (*Change Control Procedure*);
- (e) how the benefits of the Initiative can be tracked and measured to demonstrate the benefits are being realised;
- (f) where appropriate, a proposal for any requested share of benefits resulting from the Initiative between the Supplier and the Director; and
- (g) any further information that the Director requests.

4.4 The Supplier shall also proactively throughout the Term:

- 4.4.1 provide input into Initiatives proposed by the Director or Relevant Third Party Suppliers on request;
- 4.4.2 provide data to allow a baseline measurement of areas that need improvement;
- 4.4.3 enable the current Service to be baselined;
- 4.4.4 embed a culture of continuous improvement in all Supplier Personnel engaged in provision of the Services;
- 4.4.5 appoint and empower suitably trained and skilled individuals amongst the Supplier Personnel to proactively work on generating Initiatives and identifying opportunities; and
- 4.4.6 support the Director in recording, tracking and reporting on Continuous Improvement Plan Initiatives that have been chosen in accordance with Paragraph 5 or as otherwise directed by the Change Delivery Committee.

## **5 DELIVERING CONTINUOUS IMPROVEMENT**

- 5.1 Capitalised terms in this Paragraph 5 which are undefined in this Schedule, or Schedule 1 (*Definitions*), shall have the same meaning as defined in Schedule 8.2 (*Change Control Procedure*).
- 5.2 Any Initiative submitted throughout the Contract Year may be chosen by the Director for further consideration. The decision to pursue and/or implement any Initiative submitted by the Supplier or any Relevant Third Party Supplier under the Continuous Improvement Plan shall be at the Director's sole discretion, and the Director reserves the right to request a commercial discussion with the Supplier to inform such a decision if the Director requires further information (e.g. to better understand the potential benefit, or the impact on Relevant Third Party Suppliers).

- 5.3 If the Director notifies the Supplier that it wishes to pursue any Initiative submitted by the Supplier, the Director shall either include in the delivery schedule for Devops Changes, or, where the Director has agreed to treat as an alternative type of Change, issue a formal Change Request on the basis of the submitted Initiative. The Initiative shall then be processed as a Change under the Change Control Procedure pursuant to Schedule 8.2, save that for Changes initiated pursuant to this Schedule:
- 5.3.1 following the Supplier Scope Reviews there shall be no Definition Phase; and
  - 5.3.2 the timeline for implementation set out in the Initiative (or as otherwise agreed between the Supplier and the Director) shall override any timescale-related requirement in Schedule 8.2.
- 5.4 The Supplier is expected to implement any chosen Initiative in line with the indicative pricing provided under Paragraph 4.3.3(c). If an Initiative is chosen under Paragraph 5.3 and the price of delivery has materially increased during the Impact Assessment phase, the Supplier shall provide justification for the material increase and unless otherwise agreed by the Director, the cost of the Impact Assessment phase will be borne by the Supplier.
- 5.5 Notwithstanding the above, and subject to the reporting requirement in Paragraph 6.3 below, where the Supplier identifies any potential improvements to its own internal systems and processes which would not require an amendment to this Agreement, or otherwise affect the Director or any Relevant Third Party Supplier, the Supplier shall be entitled to deliver such improvements.

## **6 TRACKING AND REPORTING**

- 6.1 The progress of Initiatives chosen for implementation under Paragraph 5.3 shall be tracked and managed in accordance with the procedure under Schedule 8.2 (*Change Control Procedure*).
- 6.2 The Supplier's compliance with its obligation under this Schedule shall be scored as part of the Partnership Index rating assigned to the Supplier on an annual basis.
- 6.3 Any improvements made to the Supplier's internal systems and processes in accordance with Paragraph 5.5 shall be reported to the Director for information purposes.

## SCHEDULE 9.1 - STAFF TRANSFER

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

**Former Supplier** means a supplier supplying services to the Director before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any sub-contractor of any such sub-contractor).

**New Fair Deal** means the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for staff pensions: staff transfer from central government*" issued in October 2013 including:

- (a) any amendments to that document immediately prior to the Relevant Transfer Date; and
- (b) any similar pension protection in accordance with the Annexes Annex D1 to Part 4 of this Schedule as notified to the Supplier by the Director.

**Notified Sub-contractor** means a Sub-contractor identified in Annex E1 to this Schedule to whom Transferring Former Supplier Employees will transfer on a Relevant Transfer Date.

**Old Fair Deal** means HM Treasury Guidance "*Staff Transfers from Central Government: A Fair Deal for Staff Pensions*" issued in June 1999 including the supplementary guidance "*Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues*" issued in June 2004.

**Replacement Sub-contractor** means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor).

**Relevant Transfer** means a transfer of employment to which the Employment Regulations applies.

**Relevant Transfer Date** in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part 4 and its Annex D1, where the Supplier or a Sub-contractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor), references to the Relevant Transfer Date shall become references to the Operational Service Commencement Date.

**Service Transfer** means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor.

**Service Transfer Date** means the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires.

**Staffing Information** in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, all information required in Annex E2 (*Staffing Information*) in the format specified and with the identities of Data Subjects anonymised where possible. The Director may acting reasonably make changes to the format or information requested in Annex E2 from time to time.

**Statutory Schemes** means the CSPS as defined in the Annex D1 to Part 4 of this Schedule.

**Supplier's Final Supplier Personnel List** means a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date.

**Supplier's Provisional Supplier Personnel List** means a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier.

**Transferring Former Supplier Employees** in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.

**Transferring Supplier Employees** means those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

## **2 INTERPRETATION**

- 2.1 Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Director, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

**PART 1: NOT USED**

## **PART 2: TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES**

### **1 RELEVANT TRANSFERS**

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

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

#### **1.2 The Director shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Director shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.**

### **2 FORMER SUPPLIER INDEMNITIES**

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

- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
  - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
- 2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to

financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

- 2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-contractor as appropriate may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-contractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or
- 2.2.2 arising from the failure by the Supplier and/or any Sub-contractor to comply with its obligations under the Employment Regulations.

### **3 SUPPLIER INDEMNITIES AND OBLIGATIONS**

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

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

Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

3.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Director and/or the Former Supplier in writing;

3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

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

(b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date; and/or

3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations.

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

3.3 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

## **4 INFORMATION**



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

## **5 PRINCIPLES OF GOOD EMPLOYMENT PRACTICE**

- 5.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Director relating to pensions in respect of any Transferring Former Supplier Employee as set down in:
- 5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
  - 5.1.2 Old Fair Deal; and/or
  - 5.1.3 the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

## **6 PROCUREMENT OBLIGATIONS**

- 6.1 Notwithstanding any other provisions of this Part 2, where in this Part 2 the Director accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Director's contract with the Former Supplier contains a contractual right in that regard which the Director may enforce, or otherwise so that it requires only that the Director must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## **7 PENSIONS**

- 7.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with:
- 7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
  - 7.1.2 Part 4 (and its Annex D1) to this Staff Transfer Schedule.

**PART 3: NOT USED**

## PART 4: PENSIONS

### 1 DEFINITIONS

- 1.1 In this Part 4 and Part 5, the following words have the following meanings and they shall supplement Schedule 1 (*Definitions*), and shall be deemed to include the definitions set out in the Annex D1 to this Part 4:

**Actuary** means a Fellow of the Institute and Faculty of Actuaries.

**Admission Agreement** means the CSPA Admission Agreement (as defined in Annex D1 (CSPA)).

**Broadly Comparable** means:

- (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or
- (b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,

and "**Broad Comparability**" shall be construed accordingly.

**CSPA** means the schemes as defined in Annex D1 to this Part 4.

**Fair Deal Eligible Employees** means each of the CSPA Eligible Employees, (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 11 of this Part 4).

**Fair Deal Employees** means any of:

- (a) Transferring Former Supplier Employees; and/or
- (b) employees who are not Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-Contractor;
- (c) where the Supplier or a Sub-contractor was the Former Supplier, the employees of the Supplier (or Sub-contractor);
- (d) who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with Paragraph 11 of this Part 4.

### 2 PARTICIPATION

- 2.1 In respect of all or any Fair Deal Employees Annex D1: CSPA, shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:

- 2.3.1 to pay to the Statutory Scheme all such amounts as are due under the relevant Admission Agreement or otherwise and shall deduct and pay to the Statutory Scheme such employee contributions as are required; and
- 2.3.2 shall be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Scheme, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 Where the Supplier is the Former Supplier (or a Sub-contractor is a sub-contractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor) at the Operational Service Commencement Date, this Part 4 and its Annex D1 shall be modified accordingly so that the Supplier (or Sub-contractor) shall comply with its requirements from the Operational Service Commencement Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Sub-contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Director.

### **3 PROVISION OF INFORMATION**

3.1 The Supplier undertakes to the Director:

- 3.1.1 to provide all information which the Director may reasonably request concerning matters referred to in this Part 4 as expeditiously as possible;
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part 4 without the consent in writing of the Director (such consent not to be unreasonably withheld or delayed); and
- 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of this Agreement.

### **4 INDEMNITIES**

4.1 The Supplier shall indemnify and keep indemnified the Director, any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of Service on or after the Relevant Transfer Date which arises from any breach by the Supplier of this Part 4, and/or the CSPS Admission Agreement;
- 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Sub-contractor on and after the Relevant Transfer Date until the date of termination or expiry of this Agreement, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraph 11 of this Part 4;
- 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
  - (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Agreement; and/or

- (b) arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part 4 before the date of termination or expiry of this Agreement.

4.2 The indemnities in this Part 4 and its Annex D1:

4.2.1 shall survive termination of this Agreement; and

4.2.2 shall not be affected by the caps on liability contained in Clause 27 (*Limitations on Liability*).

## **5 DISPUTES**

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the Director and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part 4 and its Annex D1 and shall in the absence of agreement between the Director and/or the Supplier be referred to an independent Actuary:

5.1.1 who will act as an expert and not as an arbitrator;

5.1.2 whose decision will be final and binding on the Director and/or the Supplier; and

5.1.3 whose expenses shall be borne equally by the Director and/or the Supplier unless the independent Actuary shall otherwise direct.

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

## **6 THIRD PARTY RIGHTS**

6.1 The Parties agree Clause 46 (*Third Party Rights*) does not apply and that the CRTPA applies to this Part 4 to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation in respect of to him or her by the Supplier under this Part 4, in his or her or its own right under section 1(1) of the CRTPA.

6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Sub-contractor in his or her own right under section 1(1) of the CRTPA.

## **7 BREACH**

7.1 The Supplier agrees to notify the Director should it breach any obligations it has under this Part 4 and agrees that the Director shall be entitled to terminate its Agreement for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part 4; or

7.1.2 commits a breach of any provision or obligation it has under this Part 4 which, where capable of remedy, it fails to remedy within a reasonable time and in any event within twenty eight (28) days of the date of a notice from the Director giving particulars of the breach and requiring the Supplier to remedy it.

## **8 TRANSFER TO ANOTHER EMPLOYER/SUB-CONTRACTORS**

8.1 Save on expiry or termination of this Agreement, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall or shall procure that any relevant Sub-contractor shall:

- 8.1.1 notify the Director as far as reasonably practicable in advance of the transfer to allow the Director to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
- 8.1.2 consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and
- 8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the "**New Employer**") complies with the provisions of this Part 4 and its Annex D1 provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

## **9 PENSION ISSUES ON EXPIRY OR TERMINATION**

- 9.1 The provisions of Part 5 (*Employment Exit Provisions*) apply in relation to pension issues on expiry or termination of this Agreement.
- 9.2 The Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Agreement provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or CSPS and/or the Director may reasonably require, to enable the Replacement Supplier to participate in the Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

## **10 NOT USED**

## **11 BROADLY COMPARABLE PENSION SCHEME IN OTHER CIRCUMSTANCES**

- 11.1 If the terms of Paragraph 2.2 of Annex D1 (CSPS) apply the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Director.
- 11.2 Such Broadly Comparable pension scheme must be:
  - 11.2.1 established by the date of cessation of participation in the Statutory Scheme;
  - 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Director);
  - 11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Director); and
  - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Director).
- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Sub-contractors shall):
  - 11.3.1 supply to the Director details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of Broad Comparability (which

remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;

11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;

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

11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Agreement allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Sub-contractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Sub-contractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Director or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Director directs) for any failure to pay the Shortfall under this Paragraph.

## 12 RIGHT OF SET-OFF

12.1 The Director shall have a right to set off against any payments due to the Supplier under this Agreement an amount equal to:

12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPS or any CSPS Admission Agreement in respect of the CSPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee;

- 12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPS or any Direction Letter/Determination in respect of the NHSPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee; or
- 12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee;

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

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



## ANNEX D1: CSPA

### 1 DEFINITIONS

- 1.1 In this Annex D1: CSPA to Part 4: Pensions, the following words have the following meanings:

**CSPA Admission Agreement** means an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPA in respect of the Services.

**CSPA Eligible Employee** means any CSPA Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPA under a CSPA Admission Agreement.

**CSPA Fair Deal Employee** means a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPA in accordance with the provisions of New Fair Deal.

**CSPA** means the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

### 2 FUTURE SERVICE BENEFITS

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any CSPA Fair Deal Employee compulsorily transfers as a result of either the award of this Agreement or a Relevant Transfer, if not an employer which participates automatically in the CSPA, shall each secure a CSPA Admission Agreement to ensure that CSPA Fair Deal Employees or CSPA Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPA that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Sub-contractors shall procure that the CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.
- 2.2 If the Supplier and/or any of its Sub-contractors enters into a CSPA Admission Agreement in accordance with Paragraph 1.1 but the CSPA Admission Agreement is terminated during the term of this Agreement for any reason at a time when the Supplier or Sub-contractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Sub-contractors shall) at no extra cost to the Director, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of Paragraph 11 of Part 4.

## **PART 5: EMPLOYMENT EXIT PROVISIONS**

### **1 PRE-SERVICE TRANSFER OBLIGATIONS**

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Director of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Agreement;
  - 1.1.3 the date which is twelve (12) months before the end of the Term; or
  - 1.1.4 receipt of a written request of the Director at any time (provided that the Director shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Director.
- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Director or at the direction of the Director to any Replacement Supplier and/or any Replacement Sub-contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
  - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Director shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.
- 1.4 The Supplier warrants, for the benefit of the Director, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Director (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
  - 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including pensions and any payments connected with the termination of employment);
  - 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;

- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Director or, at the direction of the Director, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Director any information the Director may reasonably require relating to the manner in which the Services are organised, which shall include:

- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part 4 (*Pensions*) of this Schedule (as appropriate); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.

- 1.7 The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Director, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Director or, at the direction of the Director, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
- 1.7.2 details of cumulative pay for tax and pension purposes;
- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

## **2 EMPLOYMENT REGULATIONS EXIT PROVISIONS**

- 2.1 The Director and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Agreement or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor.

Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Director and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

- 2.2 The Supplier shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Director and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
- 2.3.2 the breach or non-observance by the Supplier or any Sub-contractor occurring on or before the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
- (b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Director and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

- 2.3.5 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date;
  - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Director and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and
  - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Director and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
  - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Supplier's Final Supplier Personnel list claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel list, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Director shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
  - 2.5.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Director shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer of employment has been made;
  - 2.7.2 such offer has been made but not accepted; or
  - 2.7.3 the situation has not otherwise been resolved,

the Director shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate, that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

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

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within six (6) months of the Service Transfer Date.

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

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

2.11.1 the Supplier and/or any Sub-contractor; and

2.11.2 the Replacement Supplier and/or the Replacement Sub-contractor.

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

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

- 2.13 Subject to Paragraph 2.14, the Director shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
  - 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
    - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;
  - 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
  - 2.13.4 any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
  - 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
  - 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-contractor, to the Replacement

Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

2.13.7 a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.



## **ANNEX E1: LIST OF NOTIFIED SUB-CONTRACTORS**

## **ANNEX E2: STAFFING INFORMATION**

## EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor:

Number of Employees in-scope to transfer:

Completion notes

- 1 *If you have any Key Sub-contractors, please complete all the above information for any staff employed by such Key Sub-contractor(s) in a separate spreadsheet.*
- 2 *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.*
- 3 *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.*

EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Age	Employment status (for example, employee, fixed-term employee, self- employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

CONTRACTUAL PAY AND BENEFITS								
Details	Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (x Salary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

CONTRACTUAL PAY AND BENEFITS						
Details	Details Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						



PENSIONS						
Details	Employee pension contribution rate	Employer pension contribution rate	Please provide the name of the pension scheme and a link to the pension scheme website	Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?	If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?	Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHSPA, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

PENSIONS				
Details	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.	If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.	Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?	If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?
Emp No 1				
Emp No 2				
Emp No				
Emp No				
Emp No				
Emp No				
Emp No				

	OTHER		
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

## PART 6: TRUE UP MECHANISM

### 1 DEFINITIONS

1.1 In this Part 6: True Up Mechanism, the following words have the following meanings:

**Genuine Vacancy** means a position identified in the Bid TUPE List (as defined in Paragraph 2.2.1 below) for a role or an individual that does not transfer from the Incumbent Supplier on the date that the relevant staff transfer to the Supplier, or a role which is identified as a Relevant transfer but no individual or individuals actually transfer to the Supplier for the identified role.

**Employment Costs** means all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions.

### 2 TRUE UP MECHANISM

2.1 The Supplier shall use all reasonable endeavours to enforce the rights available to the Supplier as a result of the third party rights conferred on the Supplier in the Legacy Services Contract in Schedule 10.1 (*Staff Transfer*) in respect of Paragraph 6 of that Legacy Services Contract Schedule.

2.2 To the extent that the Supplier incurs costs that are not recoverable in accordance with Paragraph 2.1, the Charges will be adjusted to reflect the difference (up or down) between:

2.2.1 the Supplier's costs (as shown in the Pricing Response Template in a worksheet entitled 'Supplier\_TUPE\_Baseline') based on the TUPE information provided prior to the Final Tender submission (the "**Bid TUPE List**" (which contains the TUPE costs supplied by the Incumbent Supplier during the bidding process (the "**Anticipated Employment Costs**")))); and

2.2.2 the Supplier's costs (calculated in the same manner as the Anticipated Employment Costs save in respect of any reasonable additional cost items not listed in the TUPE information) based on the Supplier's actual employment costs of the transferred staff, or staff employed to fill a Genuine Vacancy, or staff that were not included in the TUPE information but that did transfer the Supplier ("**Actual Employment Costs**");

2.2.3 the adjustment to be made to the Charges shall be calculated by first calculating the percentage change in the overall Employment Costs for the staff concerned and then multiplying this by the percentage that the staff costs represent as a proportion of the Fixed Service Charges, which will be adjusted by the resulting percentage. For example if the Employment Costs overall increase by 2% and the staff costs included in the calculation represent 38.75% of the Fixed Service Charges the Fixed Service Charges will be increased by 0.775%;

the adjustment to the Charges shall be calculated and applied retrospectively from the date that the staff transferred. In the event of any dispute as to the adjustment to be made in accordance with this Paragraph 2.2, either party shall be entitled to refer this matter to be dealt with in accordance with the Dispute Resolution Procedure pursuant to Clause 48 (*Disputes*) and Schedule 8.3 (*Dispute Resolution Procedure*) for resolution.

2.3 No account shall be taken of any variation between the Anticipated Employment Costs and the Actual Employment Costs where the variation arises as a result of:

2.3.1 the Supplier omitting to include staff identified in the Bid TUPE List in its Supplier costs or other deviation from the Bid TUPE List;

2.3.2 a change made by the Supplier to any terms and conditions of employment of the Transferring Employees, except in the case of newly hired staff who are replacing a Genuine Vacancy;

- 2.3.3 the costs of claims brought in an Employment Tribunal or any other Court of Tribunal by any of the Transferring Employees concerning their employment with the Supplier following the Staff Transfer Date; or
- 2.3.4 any matter for which a claim could arise from an act or omission by the Incumbent Supplier as a result of the indemnity provided in the Legacy Services Contract .

## SCHEDULE 9.2 - KEY PERSONNEL

KEY ROLE	Name of KEY Personnel	Responsibilities/ Authorities	Phase of the project during which they will be a MEMBER OF Key Personnel	MINIMUM PERIOD in Key Role
Lead Customer SME	██████████	Lead SME for Customer Inclusion throughout the design and testing of the end to end Target Operating Model.	From Date      Effective	2 Years from Effective Date
Compliance Lead	██████ ██████████	Operational responsibility for ensuring the Supplier's activities and deliverables comply with requirements in respect of compliance, regulation and risk, including but not limited to the Director's "Compliance Universe" (please refer to the further information within the data room as appropriate) and for ensuring that relevant governance is applied and control measures are effective	From Date      Effective	2 Years from Effective Date
Tier 1 management team	For transition this will include the names listed below. Following Operational Service Commencement this may include additional / alternative names transferring as part of TUPE or allocated to the account.	Relevant members of the Supplier's Tier 1 management team i.e. those reporting directly into Supplier's Senior Exec team	From Date      Effective	2 Years from Effective Date
Supplier Executive/Lead	██████████	Responsible for overall customer account/relationship (senior role)	From Date      Effective	2 Years from Effective Date
Delivery/on-boarding	██████████	Implementation lead/responsible officer – both at the start of the Agreement, but also future on-boarding of Third-Party Relevant	From Date      Effective	Up to MS14

		Suppliers and roll out of significant changes		
Commercial/Finance	██████████	Responsible for overall commercial and financial aspects between the Supplier and the Director	From Effective Date	2 Years from Effective Date
Collaboration Management	██████████ [For Transition Period, Following Operational Service Commencement a new name will be provided]	Responsible for compliance with the obligations in the contract terms and in particular Schedule 12 ( <i>Collaboration Agreement</i> ), acting as key contact around the collaboration role and engagement with all Parties	From Effective Date	Up to MS14
CRM/SIAM interface	██████████	Named individual to act as client relationship managers responsible for managing Supplier interface with the Director's SIAM function and the Director's core function	From Effective Date	2 Years from Effective Date
Exit Manager	To be confirmed following Operational Service Commencement, this role may be filled by a TUPE Resource.	With responsibility for the Suppliers exit planning and management of activity (in accordance with Schedule 8.5 ( <i>Exit Management</i> ))	During exit – in place from the earlier of either a) within 2 Working Days of the issue of a Termination Notice (whether partial or full); or b) 1 year prior to expiry of the Initial Term or Extension Period as applicable	Up to expiry of the Termination Assistance Period
Security Management Lead	██████████	Operational responsibility for ensuring the Supplier's activities and delivery of the Services meets the security obligations	From Effective Date	2 Years from Effective Date
HR Transition Manager	██████████	The HR Transition Manager shall: <ul style="list-style-type: none"> <li>• ensure the Provider's adherence to TUPE law and best practice;</li> <li>• liaise with the Director and the Incumbent Supplier to arrange for the transfer of Director Transferring Employees (if any) and Transferring Employees</li> </ul>	From Effective Date	Up to MS11

		including pension-related matters; and • act as primary point of contact for all HR issues during Transition		
Enterprise Architect	██████████	Responsible for the overall end to end architecture across the Package C solution, ensuring the architecture uses established patterns/standards and that the system will meet the requirements of the project	From Effective Date	Up to MS13
Solution Architect	██████████	Responsible for the application and integration architecture across Contact Centre and Operations and integration with other Package providers.  Responsible for the low level design, ensuring the architecture uses established patterns/standards and that the system will meet the requirements of the project	From Effective Date	Up to MS13



**SCHEDULE 10 - GUARANTEE**

***[Insert the name of the Guarantor]***

**- and -**

***THE DIRECTOR OF SAVINGS***

**DEED OF GUARANTEE**

## DEED OF GUARANTEE

**THIS DEED** is executed as a deed and dated [Insert date of execution] (the "**Deed**")

### BETWEEN:

- (1) [INSERT NAME OF THE GUARANTOR] [a company incorporated in [England and Wales] under registered number [insert registered number] whose registered office is at [insert registered office]] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details]] (the "**Guarantor**"); and
- (2) **THE DIRECTOR OF SAVINGS** as agent of the Crown (the "**Director**").

together the "**Parties**" and each a "**Party**".

### BACKGROUND:

- (A) The Director has awarded a contract dated [insert date] to [insert details of the Supplier] (the "**Supplier**") for the provision of Customer Contact and Operations (the "**Guaranteed Agreement**").
- (B) It is a condition of the Director entering into the Guaranteed Agreement that the Supplier procures the execution and delivery to the Director of a parent company guarantee substantially in the form of this Deed.
- (C) The Guarantor has agreed to guarantee the due performance of the Guaranteed Agreement.

**IT IS AGREED** as follows:

## 1 DEFINITIONS AND INTERPRETATION

### Definitions

- 1.1 The following definitions apply in this Deed:

**Business Day** means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Control** means the power of a person to secure that the affairs of a body corporate are conducted in accordance with the wishes of that person:

- (a) by means of the holding of shares or the possession of voting power in relation to that body or any other body corporate; or
- (b) as a result of any powers conferred by the constitutional or corporate documents, or any other document regulating that body or any other body corporate.

**Guaranteed Agreement** has the meaning given to it in Recital (A).

**Guaranteed Obligations** has the meaning given to it in Clause 2.1.1.

**Supplier** has the meaning given to it in Recital (A).

**VAT** means value added tax or any equivalent tax chargeable in the UK or elsewhere.

### Interpretation

- 1.2 Unless otherwise stated, any reference in this Deed to:

- 1.2.1 the "Guarantor", the "Director", the "Supplier" or any other person shall be construed so as to include their successors in title, permitted assigns and permitted transferees, whether direct or indirect;
- 1.2.2 "assets" includes present and future properties, revenues and rights of every description;
- 1.2.3 this "Deed", or any other agreement or instrument is a reference to, this deed or other agreement or instrument as amended, novated, supplemented, extended or restated;
- 1.2.4 "indebtedness" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.5 a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- 1.2.6 the words "including", "includes", "in particular", "for example" or similar shall be construed as illustrative and without limitation to the generality of the related general words; and
- 1.2.7 a time of day is a reference to London time.

## 2 GUARANTEE AND INDEMNITY

### 2.1 The Guarantor:

- 2.1.1 guarantees to the Director the due and punctual performance of all of the Supplier's present and future obligations under and in connection with the Guaranteed Agreement if and when they become due and performable in accordance with the terms of the Guaranteed Agreement (the "**Guaranteed Obligations**");
- 2.1.2 shall pay to the Director from time to time on demand all monies (together with interest on such sum accrued before and after the date of demand until the date of payment) that have become payable by the Supplier to the Director under or in connection with the Guaranteed Agreement but which has not been paid at the time the demand is made; and
- 2.1.3 shall, if the Supplier fails to perform in full and on time any of the Guaranteed Obligations and upon written notice from the Director, immediately on demand perform or procure performance of the same at the Guarantor's own expense.

### 2.2 The Guarantor, as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under Clause 2.1, shall indemnify and keep indemnified the Director in full and on demand from and against all and any losses, damages, costs and expenses suffered or incurred by the Director arising out of, or in connection with:

- 2.2.1 any failure by the Supplier to perform or discharge the Guaranteed Obligations; or
- 2.2.2 any of the Guaranteed Obligations being or becoming wholly or partially unenforceable for any reason,

provided that the Guarantor's liability under this Clause shall be no greater than the Supplier's liability under the Guaranteed Agreement was (or would have been had the relevant Guaranteed Obligation been fully enforceable).

## 3 DIRECTOR PROTECTIONS

### Continuing Guarantee

- 3.1 This Deed is, and shall at all times be, a continuing and irrevocable security until 15 years after the Guaranteed Obligations have been satisfied or performed in full, and is in addition to and not in

substitution for and shall not merge with any other right, remedy, guarantee or security which the Director may at any time hold for the performance of the Guaranteed Obligations and may be enforced without first having recourse to any such security.

#### **Preservation of the Guarantor's liability**

- 3.2 The Guarantor's liability under this Deed shall not be reduced, discharged or otherwise adversely affected by:
- 3.2.1 any arrangement made between the Supplier and the Director;
  - 3.2.2 any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations;
  - 3.2.3 any alteration in the obligations undertaken by the Supplier whether by way of any variation referred to in Clause 4 or otherwise;
  - 3.2.4 any waiver or forbearance by the Director whether as to payment, time, performance or otherwise;
  - 3.2.5 the taking, variation, renewal or release of, the enforcement or neglect to perfect or enforce any right, guarantee, remedy or security from or against the Supplier or any other person;
  - 3.2.6 any unenforceability, illegality or invalidity of any of the provisions of the Guaranteed Agreement or any of the Supplier's obligations under the Guaranteed Agreement, so that this Deed shall be construed as if there were no such unenforceability, illegality or invalidity; or
  - 3.2.7 any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, Control or ownership, insolvency, liquidation, administration, voluntary arrangement, or appointment of a receiver, of the Supplier or any other person.

#### **Immediate demand**

- 3.3 The Guarantor waives any right it may have to require the Director to proceed against, enforce any other right or claim for payment against, or take any other action against, the Supplier or any other person before claiming from the Guarantor under this Guarantee.

#### **Deferral of rights**

- 3.4 Until all amounts which may be or become payable under the Guaranteed Agreement or this Deed have been irrevocably paid in full, the Guarantor shall not, as a result of this Deed or any payment performance under this Deed:
- 3.4.1 be subrogated to any right or security of the Director;
  - 3.4.2 claim or prove in competition with the Director against the Supplier or any other person;
  - 3.4.3 demand or accept repayment in whole or in part of any indebtedness due from the Supplier;
  - 3.4.4 take the benefit of, share in or enforce any security or other guarantee or indemnity against the Supplier; or
  - 3.4.5 claim any right of contribution, set-off or indemnity from the Supplier,
- without the prior written consent of the Director (and in such case only in accordance with any written instructions of the Director).

- 3.5 If the Guarantor receives any payment or other benefit in breach of Clause 3.4, or as a result of any action taken in accordance with a written instruction of the Director given pursuant to Clause 3.4, such payment of other benefit, and any benefit derived directly or indirectly by the Guarantor therefrom, shall be held by the Guarantor on trust for the Director applied towards the discharge of the Guarantor's obligations to the Director under this Deed.

#### **4 VARIATION OF THE GUARANTEED AGREEMENT**

- 4.1 The Guarantor confirms that it intends that this Deed shall extend and apply from time to time to any variation, increase, extension or addition of the Guaranteed Agreement, however fundamental, and any associated fees, costs and/or expenses.

#### **5 PAYMENT AND COSTS**

- 5.1 All sums payable by the Guarantor under this Deed shall be paid in full to the Director in pounds sterling:

5.1.1 without any set-off, condition or counterclaim whatsoever; and

5.1.2 free and clear of any deductions or withholdings whatsoever except as may be required by applicable law which is binding on the Guarantor.

- 5.2 If any deduction or withholding is required by any applicable law to be made by the Guarantor:

5.2.1 the amount of the payment due from the Guarantor shall be increased to an amount which (after making any deduction or withholding) leaves an amount equal to the payment which would have been due if no deduction or withholding had been required; and

5.2.2 the Guarantor shall promptly deliver to the Director all receipts issued to it evidencing each deduction or withholding which it has made.

- 5.3 The Guarantor shall not and may not direct the application by the Director of any sums received by the Director from the Guarantor under any of the terms in this Deed.

- 5.4 The Guarantor shall pay interest on any amount due under this Deed at three per cent (3%) above the prevailing base lending rate of the Bank of England, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

- 5.5 The Guarantor shall, on a full indemnity basis, pay to the Director on demand the amount of all costs and expenses (including legal and out-of-pocket expenses and any VAT on those costs and expenses) which the Director incurs in connection with:

5.5.1 the preservation, or exercise and enforcement, of any rights under or in connection with this Deed or any attempt to do so; and

5.5.2 any discharge or release of this Deed.

#### **6 CONDITIONAL DISCHARGE**

- 6.1 Any release, discharge or settlement between the Guarantor and the Director in relation to this Deed shall be conditional on no right, security, disposition or payment to the Director by the Guarantor, the Supplier or any other person being avoided, set aside or ordered to be refunded pursuant to any enactment or law relating to breach of duty by any person, bankruptcy, liquidation, administration, protection from creditors generally or insolvency for any other reason.

- 6.2 If any such right, security, disposition or payment as referred to in Clause 6.1 is avoided, set aside or ordered to be refunded, the Director shall be entitled subsequently to enforce this Deed against the Guarantor as if such release, discharge or settlement had not occurred and any such security, disposition or payment has not been made.

## **7 REPRESENTATIONS AND WARRANTIES**

- 7.1 The Guarantor represents and warrants to the Director that:
- 7.1.1 it is duly incorporated with limited liability and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name, and has power to carry on its business as now being conducted and to own its property and other assets;
  - 7.1.2 it has full power under its constitution or equivalent constitutional documents in the jurisdiction in which it is established to enter into this Deed;
  - 7.1.3 it has full power to perform the obligations expressed to be assumed by it or contemplated by this Deed;
  - 7.1.4 it has been duly authorised to enter into this Deed;
  - 7.1.5 it has taken all necessary corporate action to authorise the execution, delivery and performance of this Deed;
  - 7.1.6 this Deed when executed and delivered will constitute a legally binding obligation on it enforceable in accordance with its terms;
  - 7.1.7 all necessary consents and authorisations for the giving and implementation of this Deed have been obtained;
  - 7.1.8 that its entry into and performance of its obligations under this Deed will not constitute any breach of or default under any contractual, government or public obligation binding on it; and
  - 7.1.9 that it is not engaged in any litigation or arbitration proceedings that might affect its capacity or ability to perform its obligations under this Deed and to the best of its knowledge no such legal or arbitration proceedings have been threatened or are pending against it.

## **8 ASSIGNMENT**

- 8.1 The Director shall be entitled by notice in writing to the Guarantor to assign the benefit of this Deed at any time to any person without the consent of the Guarantor being required and any such assignment shall not release the Guarantor from liability under this Deed.
- 8.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed without the prior written consent of the Director.

## **9 VARIATION**

- 9.1 No variation of this Deed shall be effective unless it is in writing and signed by the Parties.

## **10 DEMANDS AND NOTICES**

- 10.1 Any demand or notice served by the Director on the Guarantor under this Deed shall be in writing, addressed to:
- 10.1.1 For the Attention of [insert details];
  - 10.1.2 [Address of the Guarantor in England and Wales],

or such other address in England and Wales as the Guarantor has from time to time notified to the Director in writing in accordance with the terms of this Deed as being an address or facsimile number for the receipt of such demands or notices.

10.2 Any notice or demand served on the Guarantor or the Director under this Deed shall be deemed to have been served:

10.2.1 if delivered by hand, at the time of delivery; or

10.2.2 if posted, at 10.00 a.m. on the second Business Day after it was put into the post.

10.3 In proving service of a notice or demand on the Guarantor it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter.

10.4 Any notice purported to be served on the Director under this Deed shall only be valid when received in writing by the Director.

## **11 ENTIRE AGREEMENT**

11.1 This Deed constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.2 The Guarantor acknowledges that it has not entered into this Deed in reliance upon, nor has it been induced to enter into this Deed by, any representation, warranty or undertaking made by or on behalf of the Director (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed.

## **12 WAIVER**

12.1 No failure or delay by the Director to exercise any right or remedy provided under this Deed or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.2 Any waiver by the Director of any terms of this Deed, or of any Guaranteed Obligations, shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.

## **13 SEVERANCE**

13.1 If any provision or part-provision of this Deed is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Deed.

## **14 THIRD PARTY RIGHTS**

14.1 A person who is not a Party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any of its terms but this does not affect any third party right which exists or is available independently of that Act.

## **15 GOVERNING LAW AND JURISDICTION**

15.1 This Deed and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

15.2 The Guarantor irrevocably agrees for the benefit of the Director that the courts of England shall have jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Deed or its subject matter or formation.

15.3 The Guarantor confirms it will be responsible for all costs reasonably incurred by the Director to enforce any ruling or judgment of the courts of England and Wales made under this Deed.

15.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

Executed as a deed by )  
[insert the name of the Guarantor] )  
acting by [insert name of Director of )  
Guarantor] )  
a director, in the presence of a witness: ) .....  
[Signature of Director of  
Guarantor]

Witness signature: .....

Name of witness: .....

Address: .....

.....

.....

Occupation of witness: .....



## SCHEDULE 11 - PROCESSING PERSONAL DATA

### 1 Processing Personal Data

- 1.1 This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Director at its absolute discretion.
- 1.2 The contact details of the Director's Data Protection Officer are: [REDACTED]
- 1.3 The contact details of the Supplier's Data Protection Officer are: [REDACTED]
- 1.4 The Processor shall comply with any further written instructions with respect to processing by the Controller.
- 1.5 Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Director is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Clause 25.2 to 25.15 and for the purposes of the Data Protection Legislation, the Director is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p>All Personal Data processed by the Processor on behalf of the Controller for the purposes of the performance of the Agreement, including, but not limited to, name, address, date of birth, customer number, account number, bank account details and National Insurance Number.</p>
Duration of the processing	The Processing will be for the duration of the Term of the Agreement.
Nature and purposes of the processing	The collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of Director Personal Data as necessary to perform the Services on the documented instructions of the Director or the Service Recipient from time to time.
Type of Personal Data	<p>The following Personal Data may be processed relating to the above reasons/purposes. This information may include, but not be limited to:</p> <ul style="list-style-type: none"><li>• personal details and contact information;</li><li>• NI numbers;</li><li>• security information including standard security questions and customer responses;</li><li>• family details;</li><li>• financial details;</li><li>• education and employment details;</li><li>• goods and services provided; and</li><li>• lifestyle and social circumstances.</li></ul> <p>Special category data may also be processed. This may include, but not be limited to:</p> <ul style="list-style-type: none"><li>• racial or ethnic origin;</li><li>• physical or mental health details; and</li></ul>

	<ul style="list-style-type: none"> <li>• offences and alleged offences;</li> </ul>
Categories of Data Subject	<p>Including but not limited to:</p> <ul style="list-style-type: none"> <li>• employees;</li> <li>• customers and their families;</li> <li>• beneficiaries, assignees and payees;</li> <li>• professional advisers and consultants;</li> <li>• complainants or enquirers; and</li> <li>• suppliers.</li> </ul> <p>For the avoidance of doubt including proxies, trustees, powers of attorney and deputies on behalf of Customers.</p>
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	<p>Director Personal Data shall be returned or destroyed (at the Director's or the Service Recipient's election) in accordance with and as part of the Exit Plan.</p>

## ANNEX 1: INTERNATIONAL DATA TRANSFER AGREEMENT

VERSION A1.0, in force 21 March 2022

This IDTA has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

### Part 1: Tables

Table 1: Parties and signatures

<b>Start date</b>		
<b>The Parties</b>	<b>Exporter (who sends the Restricted Transfer)</b>	<b>Importer (who receives the Restricted Transfer)</b>
<b>Parties' details</b>	Full legal name: <input type="text"/> Trading name (if different): <input type="text"/> Main address (if a company registered address): <input type="text"/> Official registration number (if any) (company number or similar identifier): <input type="text"/>	Full legal name: <input type="text"/> Trading name (if different): <input type="text"/> Main address (if a company registered address): <input type="text"/> Official registration number (if any) (company number or similar identifier): <input type="text"/>
<b>Key Contact</b>	Full Name (optional): <input type="text"/> Job Title: <input type="text"/> Contact details including email: <input type="text"/>	Full Name (optional): <input type="text"/> Job Title: <input type="text"/> Contact details including email: <input type="text"/>
<b>Importer Data Subject Contact</b>		Job Title: <input type="text"/> Contact details including email: <input type="text"/>
<b>Signatures confirming each Party agrees to be bound by this IDTA</b>	Signed for and on behalf of the <b>Exporter</b> set out above Signed: <input type="text"/> Date of signature: <input type="text"/> Full name: <input type="text"/> Job title: <input type="text"/>	Signed for and on behalf of the <b>Importer</b> set out above Signed: <input type="text"/> Date of signature: <input type="text"/> Full name: <input type="text"/> Job title: <input type="text"/>

**Table 2: Transfer Details**

<b>UK country's law that governs the IDTA:</b>	<input type="checkbox"/> England and Wales <input type="checkbox"/> Northern Ireland <input type="checkbox"/> Scotland
<b>Primary place for legal claims to be made by the Parties</b>	<input type="checkbox"/> England and Wales <input type="checkbox"/> Northern Ireland <input type="checkbox"/> Scotland
<b>The status of the Exporter</b>	In relation to the Processing of the Transferred Data: <input type="checkbox"/> Exporter is a Controller <input type="checkbox"/> Exporter is a Processor or Sub-Processor
<b>The status of the Importer</b>	In relation to the Processing of the Transferred Data: <input type="checkbox"/> Importer is a Controller <input type="checkbox"/> Importer is the Exporter's Processor or Sub-Processor <input type="checkbox"/> Importer is <b>not</b> the Exporter's Processor or Sub-Processor (and the Importer has been instructed by a Third Party Controller)
<b>Whether UK GDPR applies to the Importer</b>	<input type="checkbox"/> UK GDPR applies to the Importer's Processing of the Transferred Data <input type="checkbox"/> UK GDPR does not apply to the Importer's Processing of the Transferred Data
<b>Linked Agreement</b>	<p><b>If the Importer is the Exporter's Processor or Sub-Processor</b> – the agreement(s) between the Parties which sets out the Processor's or Sub-Processor's instructions for Processing the Transferred Data:</p> <p>Name of agreement: <input type="text"/></p> <p>Date of agreement: <input type="text"/></p> <p>Parties to the agreement: <input type="text"/></p> <p>Reference (if any): <input type="text"/></p> <p><b>Other agreements</b> – any agreement(s) between the Parties which set out additional obligations in relation to the Transferred Data, such as a data sharing agreement or service agreement:</p> <p>Name of agreement: <input type="text"/></p> <p>Date of agreement: <input type="text"/></p> <p>Parties to the agreement: <input type="text"/></p> <p>Reference (if any): <input type="text"/></p>

	<p><b>If the Exporter is a Processor or Sub-Processor</b> – the agreement(s) between the Exporter and the Party(s) which sets out the Exporter's instructions for Processing the Transferred Data:</p> <p>Name of agreement: <input type="text"/></p> <p>Date of agreement: <input type="text"/></p> <p>Parties to the agreement: <input type="text"/></p> <p>Reference (if any): <input type="text"/></p>
<b>Term</b>	<p>The Importer may Process the Transferred Data for the following time period:</p> <p><input type="checkbox"/> the period for which the Linked Agreement is in force</p> <p><input type="checkbox"/> time period:</p> <p><input type="checkbox"/> (only if the Importer is a Controller or not the Exporter's Processor or Sub-Processor) no longer than is necessary for the Purpose.</p>
<b>Ending the IDTA before the end of the Term</b>	<p><input type="checkbox"/> the Parties cannot end the IDTA before the end of the Term unless there is a breach of the IDTA or the Parties agree in writing.</p> <p><input type="checkbox"/> the Parties can end the IDTA before the end of the Term by serving: <input type="text"/> months' written notice, as set out in Section 29 (<i>How to end this IDTA without there being a breach</i>).</p>
<b>Ending the IDTA when the Approved IDTA changes</b>	<p>Which Parties may end the IDTA as set out in Section 29.2:</p> <p><input type="checkbox"/> Importer</p> <p><input type="checkbox"/> Exporter</p> <p><input type="checkbox"/> neither Party</p>
<b>Can the Importer make further transfers of the Transferred Data?</b>	<p><input type="checkbox"/> The Importer MAY transfer on the Transferred Data to another organisation or person (who is a different legal entity) in accordance with Section 16.1 (<i>Transferring on the Transferred Data</i>).</p> <p><input type="checkbox"/> The Importer MAY NOT transfer on the Transferred Data to another organisation or person (who is a different legal entity) in accordance with Section 16.1 (<i>Transferring on the Transferred Data</i>).</p>
<b>Specific restrictions when the Importer may transfer on the Transferred Data</b>	<p>The Importer MAY ONLY forward the Transferred Data in accordance with Section 16.1:</p> <p><input type="checkbox"/> if the Exporter tells it in writing that it may do so.</p> <p><input type="checkbox"/> to: <input type="text"/></p> <p><input type="checkbox"/> to the authorised receivers (or the categories of authorised receivers) set out in:</p> <p><input type="checkbox"/> there are no specific restrictions.</p>

<b>Review Dates</b>	<input type="checkbox"/> No review is needed as this is a one-off transfer and the Importer does not retain any Transferred Data  First review date: <input style="width: 50px;" type="text"/>  The Parties must review the Security Requirements at least once:  <input type="checkbox"/> each <input style="width: 40px;" type="text"/> month(s) <input type="checkbox"/> each quarter <input type="checkbox"/> each 6 months <input type="checkbox"/> each year <input type="checkbox"/> each <input style="width: 40px;" type="text"/> year(s) <input type="checkbox"/> each time there is a change to the Transferred Data, Purposes, Importer Information, TRA or risk assessment
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**Table 3: Transferred Data**

<b>Transferred Data</b>	The personal data to be sent to the Importer under this IDTA consists of:  <input type="checkbox"/> The categories of Transferred Data will update automatically if the information is updated in the Linked Agreement referred to.  <input type="checkbox"/> The categories of Transferred Data will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
<b>Special Categories of Personal Data and criminal convictions and offences</b>	The Transferred Data includes data relating to:  <input type="checkbox"/> racial or ethnic origin <input type="checkbox"/> political opinions <input type="checkbox"/> religious or philosophical beliefs <input type="checkbox"/> trade union membership <input type="checkbox"/> genetic data <input type="checkbox"/> biometric data for the purpose of uniquely identifying a natural person <input type="checkbox"/> physical or mental health <input type="checkbox"/> sex life or sexual orientation <input type="checkbox"/> criminal convictions and offences <input type="checkbox"/> none of the above <input type="checkbox"/> set out in:  And:

	<input type="checkbox"/> The categories of special category and criminal records data will update automatically if the information is updated in the Linked Agreement referred to. <input type="checkbox"/> The categories of special category and criminal records data will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
<b>Relevant Data Subjects</b>	<p>The Data Subjects of the Transferred Data are:</p> <input type="checkbox"/> The categories of Data Subjects will update automatically if the information is updated in the Linked Agreement referred to. <input type="checkbox"/> The categories of Data Subjects will not update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
<b>Purpose</b>	<input type="checkbox"/> The Importer may Process the Transferred Data for the following purposes: <input type="checkbox"/> The Importer may Process the Transferred Data for the purposes set out in: In both cases, any other purposes which are compatible with the purposes set out above. <input type="checkbox"/> The purposes will update automatically if the information is updated in the Linked Agreement referred to. <input type="checkbox"/> The purposes will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.

**Table 4: Security Requirements**

<b>Security of Transmission</b>	
<b>Security of Storage</b>	
<b>Security of Processing</b>	
<b>Organisational security measures</b>	
<b>Technical security minimum requirements</b>	

<b>Updates to the Security Requirements</b>	<input type="checkbox"/> The Security Requirements will update automatically if the information is updated in the Linked Agreement referred to. <input type="checkbox"/> The Security Requirements will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
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## Part 2: Extra Protection Clauses

<b>Extra Protection Clauses:</b>	
<b>(i) Extra technical security protections</b>	
<b>(ii) Extra organisational protections</b>	
<b>(iii) Extra contractual protections</b>	

## Part 3: Commercial Clauses

<b>Commercial Clauses</b>	
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## Part 4: Mandatory Clauses

### Information that helps you to understand this IDTA

#### 1 This IDTA and Linked Agreements

- 1.1 Each Party agrees to be bound by the terms and conditions set out in the IDTA, in exchange for the other Party also agreeing to be bound by the IDTA.
- 1.2 This IDTA is made up of:
  - 1.2.1 Part one: Tables;
  - 1.2.2 Part two: Extra Protection Clauses;
  - 1.2.3 Part three: Commercial Clauses; and
  - 1.2.4 Part four: Mandatory Clauses.
- 1.3 The IDTA starts on the Start Date and ends as set out in Sections 29 or 30.



1.4 If the Importer is a Processor or Sub-Processor instructed by the Exporter: the Exporter must ensure that, on or before the Start Date and during the Term, there is a Linked Agreement which is enforceable between the Parties and which complies with Article 28 UK GDPR (and which they will ensure continues to comply with Article 28 UK GDPR).

1.5 References to the Linked Agreement or to the Commercial Clauses are to that Linked Agreement or to those Commercial Clauses only in so far as they are consistent with the Mandatory Clauses.

## **2 Legal Meaning of Words**

2.1 If a word starts with a capital letter it has the specific meaning set out in the Legal Glossary in Section 36.

2.2 To make it easier to read and understand, this IDTA contains headings and guidance notes. Those are not part of the binding contract which forms the IDTA.

## **3 You have provided all the information required**

3.1 The Parties must ensure that the information contained in Part one: Tables is correct and complete at the Start Date and during the Term.

3.2 In Table 2: Transfer Details, if the selection that the Parties are Controllers, Processors or Sub-Processors is wrong (either as a matter of fact or as a result of applying the UK Data Protection Laws) then:

3.2.1 the terms and conditions of the Approved IDTA which apply to the correct option which was not selected will apply; and

3.2.2 the Parties and any Relevant Data Subjects are entitled to enforce the terms and conditions of the Approved IDTA which apply to that correct option.

3.3 In Table 2: Transfer Details, if the selection that the UK GDPR applies is wrong (either as a matter of fact or as a result of applying the UK Data Protection Laws), then the terms and conditions of the IDTA will still apply to the greatest extent possible.

## **4 How to sign the IDTA**

4.1 The Parties may choose to each sign (or execute):

4.1.1 the same copy of this IDTA;

4.1.2 two copies of the IDTA. In that case, each identical copy is still an original of this IDTA, and together all those copies form one agreement;

4.1.3 a separate, identical copy of the IDTA. In that case, each identical copy is still an original of this IDTA, and together all those copies form one agreement,

unless signing (or executing) in this way would mean that the IDTA would not be binding on the Parties under Local Laws.

## **5 Changing this IDTA**

5.1 Each Party must not change the Mandatory Clauses as set out in the Approved IDTA, except only:

5.1.1 to ensure correct cross-referencing: cross-references to Part one: Tables (or any Table), Part two: Extra Protections, and/or Part three: Commercial Clauses can be changed where the Parties have set out the information in a different format, so that the cross-reference is to the correct location of the same information, or where clauses have been removed as they do not apply, as set out below;

- 5.1.2 to remove those Sections which are expressly stated not to apply to the selections made by the Parties in Table 2: Transfer Details, that the Parties are Controllers, Processors or Sub-Processors and/or that the Importer is subject to, or not subject to, the UK GDPR. The Exporter and Importer understand and acknowledge that any removed Sections may still apply and form a part of this IDTA if they have been removed incorrectly, including because the wrong selection is made in Table 2: Transfer Details;
- 5.1.3 so the IDTA operates as a multi-party agreement if there are more than two Parties to the IDTA. This may include nominating a lead Party or lead Parties which can make decisions on behalf of some or all of the other Parties which relate to this IDTA (including reviewing Table 4: Security Requirements and Part two: Extra Protection Clauses, and making updates to Part one: Tables (or any Table), Part two: Extra Protection Clauses, and/or Part three: Commercial Clauses); and/or
- 5.1.4 to update the IDTA to set out in writing any changes made to the Approved IDTA under Section 5.4, if the Parties want to. The changes will apply automatically without updating them as described in Section 5.4;

provided that the changes do not reduce the Appropriate Safeguards.

- 5.2 If the Parties wish to change the format of the information included in Part one: Tables, Part two: Extra Protection Clauses or Part three: Commercial Clauses of the Approved IDTA, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 5.3 If the Parties wish to change the information included in Part one: Tables, Part two: Extra Protection Clauses or Part three: Commercial Clauses of this IDTA (or the equivalent information), they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 5.4 From time to time, the ICO may publish a revised Approved IDTA which:
  - 5.4.1 makes reasonable and proportionate changes to the Approved IDTA, including correcting errors in the Approved IDTA; and/or
  - 5.4.2 reflects changes to UK Data Protection Laws.
- 5.5 The revised Approved IDTA will specify the start date from which the changes to the Approved IDTA are effective and whether an additional Review Date is required as a result of the changes. This IDTA is automatically amended as set out in the revised Approved IDTA from the start date specified.

## **6 Understanding this IDTA**

- 6.1 This IDTA must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.
- 6.2 If there is any inconsistency or conflict between UK Data Protection Laws and this IDTA, the UK Data Protection Laws apply.
- 6.3 If the meaning of the IDTA is unclear or there is more than one meaning, the meaning which most closely aligns with the UK Data Protection Laws applies.
- 6.4 Nothing in the IDTA (including the Commercial Clauses or the Linked Agreement) limits or excludes either Party's liability to Relevant Data Subjects or to the ICO under this IDTA or under UK Data Protection Laws.
- 6.5 If any wording in Parts one, two or three contradicts the Mandatory Clauses, and/or seeks to limit or exclude any liability to Relevant Data Subjects or to the ICO, then that wording will not apply.

- 6.6 The Parties may include provisions in the Linked Agreement which provide the Parties with enhanced rights otherwise covered by this IDTA. These enhanced rights may be subject to commercial terms, including payment, under the Linked Agreement, but this will not affect the rights granted under this IDTA.
- 6.7 If there is any inconsistency or conflict between this IDTA and a Linked Agreement or any other agreement, this IDTA overrides that Linked Agreement or any other agreements, even if those agreements have been negotiated by the Parties. The exceptions to this are where (and in so far as):
- 6.7.1 the inconsistent or conflicting terms of the Linked Agreement or other agreement provide greater protection for the Relevant Data Subject's rights, in which case those terms will override the IDTA; and
  - 6.7.2 a Party acts as Processor and the inconsistent or conflicting terms of the Linked Agreement are obligations on that Party expressly required by Article 28 UK GDPR, in which case those terms will override the inconsistent or conflicting terms of the IDTA in relation to Processing by that Party as Processor.
- 6.8 The words "include", "includes", "including", "in particular" are used to set out examples and not to set out a finite list.
- 6.9 References to:
- 6.9.1 singular or plural words or people, also includes the plural or singular of those words or people;
  - 6.9.2 legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re-enacted and/or replaced after this IDTA has been signed; and
  - 6.9.3 any obligation not to do something, includes an obligation not to allow or cause that thing to be done by anyone else.

## **7 Which laws apply to this IDTA**

- 7.1 This IDTA is governed by the laws of the UK country set out in Table 2: Transfer Details. If no selection has been made, it is the laws of England and Wales. This does not apply to Section 35 which is always governed by the laws of England and Wales.

### **How this IDTA provides Appropriate Safeguards**

## **8 The Appropriate Safeguards**

- 8.1 The purpose of this IDTA is to ensure that the Transferred Data has Appropriate Safeguards when Processed by the Importer during the Term. This standard is met when and for so long as:
- 8.1.1 both Parties comply with the IDTA, including the Security Requirements and any Extra Protection Clauses; and
  - 8.1.2 the Security Requirements and any Extra Protection Clauses provide a level of security which is appropriate to the risk of a Personal Data Breach occurring and the impact on Relevant Data Subjects of such a Personal Data Breach, including considering any Special Category Data within the Transferred Data.
- 8.2 The Exporter must:
- 8.2.1 ensure and demonstrate that this IDTA (including any Security Requirements and Extra Protection Clauses) provides Appropriate Safeguards; and

8.2.2 (if the Importer reasonably requests) provide it with a copy of any TRA.

8.3 The Importer must:

8.3.1 before receiving any Transferred Data, provide the Exporter with all relevant information regarding Local Laws and practices and the protections and risks which apply to the Transferred Data when it is Processed by the Importer, including any information which may reasonably be required for the Exporter to carry out any TRA (the "Importer Information");

8.3.2 co-operate with the Exporter to ensure compliance with the Exporter's obligations under the UK Data Protection Laws;

8.3.3 review whether any Importer Information has changed, and whether any Local Laws contradict its obligations in this IDTA and take reasonable steps to verify this, on a regular basis. These reviews must be at least as frequent as the Review Dates; and

8.3.4 inform the Exporter as soon as it becomes aware of any Importer Information changing, and/or any Local Laws which may prevent or limit the Importer complying with its obligations in this IDTA. This information then forms part of the Importer Information.

8.4 The Importer must ensure that at the Start Date and during the Term:

8.4.1 the Importer Information is accurate; and

8.4.2 it has taken reasonable steps to verify whether there are any Local Laws which contradict its obligations in this IDTA or any additional information regarding Local Laws which may be relevant to this IDTA.

8.5 Each Party must ensure that the Security Requirements and Extra Protection Clauses provide a level of security which is appropriate to the risk of a Personal Data Breach occurring and the impact on Relevant Data Subjects of such a Personal Data Breach.

## **9 Reviews to ensure the Appropriate Safeguards continue**

9.1 Each Party must:

9.1.1 review this IDTA (including the Security Requirements and Extra Protection Clauses and the Importer Information) at regular intervals, to ensure that the IDTA remains accurate and up to date and continues to provide the Appropriate Safeguards. Each Party will carry out these reviews as frequently as the relevant Review Dates or sooner; and

9.1.2 inform the other party in writing as soon as it becomes aware if any information contained in either this IDTA, any TRA or Importer Information is no longer accurate and up to date.

9.2 If, at any time, the IDTA no longer provides Appropriate Safeguards the Parties must Without Undue Delay:

9.2.1 pause transfers and Processing of Transferred Data whilst a change to the Tables is agreed. The Importer may retain a copy of the Transferred Data during this pause, in which case the Importer must carry out any Processing required to maintain, so far as possible, the measures it was taking to achieve the Appropriate Safeguards prior to the time the IDTA no longer provided Appropriate Safeguards, but no other Processing;

9.2.2 agree a change to Part one: Tables or Part two: Extra Protection Clauses which will maintain the Appropriate Safeguards (in accordance with Section 5); and

- 9.2.3 where a change to Part one: Tables or Part two: Extra Protection Clauses which maintains the Appropriate Safeguards cannot be agreed, the Exporter must end this IDTA by written notice on the Importer.

## **10 The ICO**

- 10.1 Each Party agrees to comply with any reasonable requests made by the ICO in relation to this IDTA or its Processing of the Transferred Data.
- 10.2 The Exporter will provide a copy of any TRA, the Importer Information and this IDTA to the ICO, if the ICO requests.
- 10.3 The Importer will provide a copy of any Importer Information and this IDTA to the ICO, if the ICO requests.

## **The Exporter**

### **11 Exporter's obligations**

- 11.1 The Exporter agrees that UK Data Protection Laws apply to its Processing of the Transferred Data, including transferring it to the Importer.
- 11.2 The Exporter must:
- 11.2.1 comply with the UK Data Protection Laws in transferring the Transferred Data to the Importer;
  - 11.2.2 comply with the Linked Agreement as it relates to its transferring the Transferred Data to the Importer; and
  - 11.2.3 carry out reasonable checks on the Importer's ability to comply with this IDTA, and take appropriate action including under Section 9.2, Section 29 or Section 30, if at any time it no longer considers that the Importer is able to comply with this IDTA or to provide Appropriate Safeguards.
- 11.3 The Exporter must comply with all its obligations in the IDTA, including any in the Security Requirements, and any Extra Protection Clauses and any Commercial Clauses.
- 11.4 The Exporter must co-operate with reasonable requests of the Importer to pass on notices or other information to and from Relevant Data Subjects or any Third Party Controller where it is not reasonably practical for the Importer to do so. The Exporter may pass these on via a third party if it is reasonable to do so.
- 11.5 The Exporter must co-operate with and provide reasonable assistance to the Importer, so that the Importer is able to comply with its obligations to the Relevant Data Subjects under Local Law and this IDTA.

## **The Importer**

### **12 General Importer obligations**

- 12.1 The Importer must:
- 12.1.1 only Process the Transferred Data for the Purpose;
  - 12.1.2 comply with all its obligations in the IDTA, including in the Security Requirements, any Extra Protection Clauses and any Commercial Clauses;

- 12.1.3 comply with all its obligations in the Linked Agreement which relate to its Processing of the Transferred Data;
  - 12.1.4 keep a written record of its Processing of the Transferred Data, which demonstrate its compliance with this IDTA, and provide this written record if asked to do so by the Exporter;
  - 12.1.5 if the Linked Agreement includes rights for the Exporter to obtain information or carry out an audit, provide the Exporter with the same rights in relation to this IDTA; and
  - 12.1.6 if the ICO requests, provide the ICO with the information it would be required on request to provide to the Exporter under this Section 12.1 (including the written record of its Processing, and the results of audits and inspections).
- 12.2 The Importer must co-operate with and provide reasonable assistance to the Exporter and any Third Party Controller, so that the Exporter and any Third Party Controller are able to comply with their obligations under UK Data Protection Laws and this IDTA.

### **13 Importer's obligations if it is subject to the UK Data Protection Laws**

- 13.1 If the Importer's Processing of the Transferred Data is subject to UK Data Protection Laws, it agrees that:
- 13.1.1 UK Data Protection Laws apply to its Processing of the Transferred Data, and the ICO has jurisdiction over it in that respect; and
  - 13.1.2 it has and will comply with the UK Data Protection Laws in relation to the Processing of the Transferred Data.
- 13.2 If Section 13.1 applies and the Importer complies with Section 13.1, it does not need to comply with:
- 13.2.1 Section 14 (*Importer's obligations to comply with key data protection principles*);
  - 13.2.2 Section 15 (*What happens if there is an Importer Personal Data Breach*);
  - 13.2.3 Section 20 (*How Relevant Data Subjects can exercise their data subject rights*); and
  - 13.2.4 Section 21 (*How Relevant Data Subjects can exercise their data subject rights – if the Importer is the Exporter's Processor or Sub-Processor*).

### **14 Importer's obligations to comply with key data protection principles**

- 14.1 The Importer does not need to comply with this Section 14 if it is the Exporter's Processor or Sub-Processor.
- 14.2 The Importer must:
- 14.2.1 ensure that the Transferred Data it Processes is adequate, relevant and limited to what is necessary for the Purpose;
  - 14.2.2 ensure that the Transferred Data it Processes is accurate and (where necessary) kept up to date, and (where appropriate considering the Purposes) correct or delete any inaccurate Transferred Data it becomes aware of Without Undue Delay; and
  - 14.2.3 ensure that it Processes the Transferred Data for no longer than is reasonably necessary for the Purpose.

### **15 What happens if there is an Importer Personal Data Breach**

- 15.1 If there is an Importer Personal Data Breach, the Importer must:

- 15.1.1 take reasonable steps to fix it, including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again. If the Importer is the Exporter's Processor or Sub-Processor: these steps must comply with the Exporter's instructions and the Linked Agreement and be in co-operation with the Exporter and any Third Party Controller; and
  - 15.1.2 ensure that the Security Requirements continue to provide (or are changed in accordance with this IDTA so they do provide) a level of security which is appropriate to the risk of a Personal Data Breach occurring and the impact on Relevant Data Subjects of such a Personal Data Breach.
- 15.2 If the Importer is a Processor or Sub-Processor: if there is an Importer Personal Data Breach, the Importer must:
- 15.2.1 notify the Exporter Without Undue Delay after becoming aware of the breach, providing the following information:
    - (a) a description of the nature of the Importer Personal Data Breach;
    - (b) (if and when possible) the categories and approximate number of Data Subjects and Transferred Data records concerned;
    - (c) likely consequences of the Importer Personal Data Breach;
    - (d) steps taken (or proposed to be taken) to fix the Importer Personal Data Breach (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Appropriate Safeguards are in place;
    - (e) contact point for more information; and
    - (f) any other information reasonably requested by the Exporter,

if it is not possible for the Importer to provide all the above information at the same time, it may do so in phases, Without Undue Delay; and
  - 15.2.2 assist the Exporter (and any Third Party Controller) so the Exporter (or any Third Party Controller) can inform Relevant Data Subjects or the ICO or any other relevant regulator or authority about the Importer Personal Data Breach Without Undue Delay.
- 15.3 If the Importer is a Controller: if the Importer Personal Data Breach is likely to result in a risk to the rights or freedoms of any Relevant Data Subject the Importer must notify the Exporter Without Undue Delay after becoming aware of the breach, providing the following information:
- 15.3.1 a description of the nature of the Importer Personal Data Breach;
  - 15.3.2 (if and when possible) the categories and approximate number of Data Subjects and Transferred Data records concerned;
  - 15.3.3 likely consequences of the Importer Personal Data Breach;
  - 15.3.4 steps taken (or proposed to be taken) to fix the Importer Personal Data Breach (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Appropriate Safeguards are in place;
  - 15.3.5 contact point for more information; and
  - 15.3.6 any other information reasonably requested by the Exporter.

If it is not possible for the Importer to provide all the above information at the same time, it may do so in phases, Without Undue Delay.

- 15.4 If the Importer is a Controller: if the Importer Personal Data Breach is likely to result in a high risk to the rights or freedoms of any Relevant Data Subject, the Importer must inform those Relevant Data Subjects Without Undue Delay, except in so far as it requires disproportionate effort, and provided the Importer ensures that there is a public communication or similar measures whereby Relevant Data Subjects are informed in an equally effective manner.
- 15.5 The Importer must keep a written record of all relevant facts relating to the Importer Personal Data Breach, which it will provide to the Exporter and the ICO on request.
- 15.6 This record must include the steps it takes to fix the Importer Personal Data Breach (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Security Requirements continue to provide a level of security which is appropriate to the risk of a Personal Data Breach occurring and the impact on Relevant Data Subjects of such a Personal Data Breach.

## **16 Transferring on the Transferred Data**

- 16.1 The Importer may only transfer on the Transferred Data to a third party if it is permitted to do so in Table 2: Transfer Details Table, the transfer is for the Purpose, the transfer does not breach the Linked Agreement, and one or more of the following apply:
  - 16.1.1 the third party has entered into a written contract with the Importer containing the same level of protection for Data Subjects as contained in this IDTA (based on the role of the recipient as controller or processor), and the Importer has conducted a risk assessment to ensure that the Appropriate Safeguards will be protected by that contract; or
  - 16.1.2 the third party has been added to this IDTA as a Party; or
  - 16.1.3 if the Importer was in the UK, transferring on the Transferred Data would comply with Article 46 UK GDPR; or
  - 16.1.4 if the Importer was in the UK transferring on the Transferred Data would comply with one of the exceptions in Article 49 UK GDPR; or
  - 16.1.5 the transfer is to the UK or an Adequate Country.
- 16.2 The Importer does not need to comply with Section 16.1 if it is transferring on Transferred Data and/or allowing access to the Transferred Data in accordance with Section 23 (*Access Requests and Direct Access*).

## **17 Importer's responsibility if it authorises others to perform its obligations**

- 17.1 The Importer may sub-contract its obligations in this IDTA to a Processor or Sub-Processor (provided it complies with Section 16).
- 17.2 If the Importer is the Exporter's Processor or Sub-Processor: it must also comply with the Linked Agreement or be with the written consent of the Exporter.
- 17.3 The Importer must ensure that any person or third party acting under its authority, including a Processor or Sub-Processor, must only Process the Transferred Data on its instructions.
- 17.4 The Importer remains fully liable to the Exporter, the ICO and Relevant Data Subjects for its obligations under this IDTA where it has sub-contracted any obligations to its Processors and Sub-Processors, or authorised an employee or other person to perform them (and references to the Importer in this context will include references to its Processors, Sub-Processors or authorised persons).



## **What rights do individuals have?**

### **18 The right to a copy of the IDTA**

- 18.1 If a Party receives a request from a Relevant Data Subject for a copy of this IDTA:
- 18.1.1 it will provide the IDTA to the Relevant Data Subject and inform the other Party, as soon as reasonably possible;
  - 18.1.2 it does not need to provide copies of the Linked Agreement, but it must provide all the information from those Linked Agreements referenced in the Tables;
  - 18.1.3 it may redact information in the Tables or the information provided from the Linked Agreement if it is reasonably necessary to protect business secrets or confidential information, so long as it provides the Relevant Data Subject with a summary of those redactions so that the Relevant Data Subject can understand the content of the Tables or the information provided from the Linked Agreement.

### **19 The right to Information about the Importer and its Processing**

- 19.1 The Importer does not need to comply with this Section 19 if it is the Exporter's Processor or Sub-Processor.
- 19.2 The Importer must ensure that each Relevant Data Subject is provided with details of:
- 19.2.1 the Importer (including contact details and the Importer Data Subject Contact);
  - 19.2.2 the Purposes; and
  - 19.2.3 any recipients (or categories of recipients) of the Transferred Data.

The Importer can demonstrate it has complied with this Section 19.2 if the information is given (or has already been given) to the Relevant Data Subjects by the Exporter or another party.

The Importer does not need to comply with this Section 19.2 in so far as to do so would be impossible or involve a disproportionate effort, in which case, the Importer must make the information publicly available.

- 19.3 The Importer must keep the details of the Importer Data Subject Contact up to date and publicly available. This includes notifying the Exporter in writing of any such changes.
- 19.4 The Importer must make sure those contact details are always easy to access for all Relevant Data Subjects and be able to easily communicate with Data Subjects in the English language Without Undue Delay.

### **20 How Relevant Data Subjects can exercise their data subject rights**

- 20.1 The Importer does not need to comply with this Section 20 if it is the Exporter's Processor or Sub-Processor.
- 20.2 If an individual requests, the Importer must confirm whether it is Processing their Personal Data as part of the Transferred Data.
- 20.3 The following Sections of this Section 20, relate to a Relevant Data Subject's Personal Data which forms part of the Transferred Data the Importer is Processing.
- 20.4 If the Relevant Data Subject requests, the Importer must provide them with a copy of their Transferred Data:

- 20.4.1 Without Undue Delay (and in any event within one (1) month);
  - 20.4.2 at no greater cost to the Relevant Data Subject than it would be able to charge if it were subject to the UK Data Protection Laws;
  - 20.4.3 in clear and plain English that is easy to understand; and
  - 20.4.4 in an easily accessible form,
- together with:
- 20.4.5 (if needed) a clear and plain English explanation of the Transferred Data so that it is understandable to the Relevant Data Subject; and
  - 20.4.6 information that the Relevant Data Subject has the right to bring a claim for compensation under this IDTA.
- 20.5 If a Relevant Data Subject requests, the Importer must:
- 20.5.1 rectify inaccurate or incomplete Transferred Data;
  - 20.5.2 erase Transferred Data if it is being Processed in breach of this IDTA;
  - 20.5.3 cease using it for direct marketing purposes; and
  - 20.5.4 comply with any other reasonable request of the Relevant Data Subject, which the Importer would be required to comply with if it were subject to the UK Data Protection Laws.
- 20.6 The Importer must not use the Transferred Data to make decisions about the Relevant Data Subject based solely on automated processing, including profiling (the “Decision-Making”), which produce legal effects concerning the Relevant Data Subject or similarly significantly affects them, except if it is permitted by Local Law and:
- 20.6.1 the Relevant Data Subject has given their explicit consent to such Decision-Making; or
  - 20.6.2 Local Law has safeguards which provide sufficiently similar protection for the Relevant Data Subjects in relation to such Decision-Making, as to the relevant protection the Relevant Data Subject would have if such Decision-Making was in the UK; or
  - 20.6.3 the Extra Protection Clauses provide safeguards for the Decision-Making which provide sufficiently similar protection for the Relevant Data Subjects in relation to such Decision-Making, as to the relevant protection the Relevant Data Subject would have if such Decision-Making was in the UK.
- 21 How Relevant Data Subjects can exercise their data subject rights– if the Importer is the Exporter’s Processor or Sub-Processor**
- 21.1 Where the Importer is the Exporter’s Processor or Sub-Processor: If the Importer receives a request directly from an individual which relates to the Transferred Data it must pass that request on to the Exporter Without Undue Delay. The Importer must only respond to that individual as authorised by the Exporter or any Third Party Controller.
- 22 Rights of Relevant Data Subjects are subject to the exemptions in the UK Data Protection Laws**
- 22.1 The Importer is not required to respond to requests or provide information or notifications under Sections 18, 19, 20, 21 and 23 if:
- 22.1.1 it is unable to reasonably verify the identity of an individual making the request; or

- 22.1.2 the requests are manifestly unfounded or excessive, including where requests are repetitive. In that case the Importer may refuse the request or may charge the Relevant Data Subject a reasonable fee; or
  - 22.1.3 a relevant exemption would be available under UK Data Protection Laws, were the Importer subject to the UK Data Protection Laws.
- 22.2 If the Importer refuses an individual's request or charges a fee under Section 22.1.2 it will set out in writing the reasons for its refusal or charge, and inform the Relevant Data Subject that they are entitled to bring a claim for compensation under this IDTA in the case of any breach of this IDTA.

## **How to give third parties access to Transferred Data under Local Laws**

### **23 Access requests and direct access**

- 23.1 In this Section 23 an "Access Request" is a legally binding request (except for requests only binding by contract law) to access any Transferred Data and "Direct Access" means direct access to any Transferred Data by public authorities of which the Importer is aware.
- 23.2 The Importer may disclose any requested Transferred Data in so far as it receives an Access Request, unless in the circumstances it is reasonable for it to challenge that Access Request on the basis there are significant grounds to believe that it is unlawful.
- 23.3 In so far as Local Laws allow and it is reasonable to do so, the Importer will Without Undue Delay provide the following with relevant information about any Access Request or Direct Access: the Exporter; any Third Party Controller; and where the Importer is a Controller, any Relevant Data Subjects.
- 23.4 In so far as Local Laws allow, the Importer must:
  - 23.4.1 make and keep a written record of Access Requests and Direct Access, including (if known): the dates, the identity of the requestor/accessor, the purpose of the Access Request or Direct Access, the type of data requested or accessed, whether it was challenged or appealed, and the outcome; and the Transferred Data which was provided or accessed; and
  - 23.4.2 provide a copy of this written record to the Exporter on each Review Date and any time the Exporter or the ICO reasonably requests.

### **24 Giving notice**

- 24.1 If a Party is required to notify any other Party in this IDTA it will be marked for the attention of the relevant Key Contact and sent by e-mail to the e-mail address given for the Key Contact.
- 24.2 If the notice is sent in accordance with Section 24.1, it will be deemed to have been delivered at the time the e-mail was sent, or if that time is outside of the receiving Party's normal business hours, the receiving Party's next normal business day, and provided no notice of non-delivery or bounceback is received.
- 24.3 The Parties agree that any Party can update their Key Contact details by giving fourteen (14) days' (or more) notice in writing to the other Party.

### **25 General clauses**

- 25.1 In relation to the transfer of the Transferred Data to the Importer and the Importer's Processing of the Transferred Data, this IDTA and any Linked Agreement:
  - 25.1.1 contain all the terms and conditions agreed by the Parties; and

- 25.1.2      override all previous contacts and arrangements, whether oral or in writing.
- 25.2      If one Party made any oral or written statements to the other before entering into this IDTA (which are not written in this IDTA) the other Party confirms that it has not relied on those statements and that it will not have a legal remedy if those statements are untrue or incorrect, unless the statement was made fraudulently.
- 25.3      Neither Party may novate, assign or obtain a legal charge over this IDTA (in whole or in part) without the written consent of the other Party, which may be set out in the Linked Agreement.
- 25.4      Except as set out in Section 17.1, neither Party may sub contract its obligations under this IDTA without the written consent of the other Party, which may be set out in the Linked Agreement.
- 25.5      This IDTA does not make the Parties a partnership, nor appoint one Party to act as the agent of the other Party.
- 25.6      If any Section (or part of a Section) of this IDTA is or becomes illegal, invalid or unenforceable, that will not affect the legality, validity and enforceability of any other Section (or the rest of that Section) of this IDTA.
- 25.7      If a Party does not enforce, or delays enforcing, its rights or remedies under or in relation to this IDTA, this will not be a waiver of those rights or remedies. In addition, it will not restrict that Party's ability to enforce those or any other right or remedy in future.
- 25.8      If a Party chooses to waive enforcing a right or remedy under or in relation to this IDTA, then this waiver will only be effective if it is made in writing. Where a Party provides such a written waiver:
- 25.8.1      it only applies in so far as it explicitly waives specific rights or remedies;
- 25.8.2      it shall not prevent that Party from exercising those rights or remedies in the future (unless it has explicitly waived its ability to do so); and
- 25.8.3      it will not prevent that Party from enforcing any other right or remedy in future.

## **What happens if there is a breach of this IDTA?**

### **26 Breaches of this IDTA**

- 26.1      Each Party must notify the other Party in writing (and with all relevant details) if it:
- 26.1.1      has breached this IDTA; or
- 26.1.2      it should reasonably anticipate that it may breach this IDTA, and provide any information about this which the other Party reasonably requests.
- 26.2      In this IDTA "Significant Harmful Impact" means that there is more than a minimal risk of a breach of the IDTA causing (directly or indirectly) significant damage to any Relevant Data Subject or the other Party.

### **27 Breaches of this IDTA by the Importer**

- 27.1      If the Importer has breached this IDTA, and this has a Significant Harmful Impact, the Importer must take steps Without Undue Delay to end the Significant Harmful Impact, and if that is not possible to reduce the Significant Harmful Impact as much as possible.
- 27.2      Until there is no ongoing Significant Harmful Impact on Relevant Data Subjects:
- 27.2.1      the Exporter must suspend sending Transferred Data to the Importer;

27.2.2 If the Importer is the Exporter's Processor or Sub-Processor: if the Exporter requests, the importer must securely delete all Transferred Data or securely return it to the Exporter (or a third party named by the Exporter); and

27.2.3 if the Importer has transferred on the Transferred Data to a third party receiver under Section 16, and the breach has a Significant Harmful Impact on Relevant Data Subject when it is Processed by or on behalf of that third party receiver, the Importer must:

(a) notify the third party receiver of the breach and suspend sending it Transferred Data; and

(b) if the third party receiver is the Importer's Processor or Sub-Processor: make the third party receiver securely delete all Transferred Data being Processed by it or on its behalf, or securely return it to the Importer (or a third party named by the Importer).

27.3 If the breach cannot be corrected Without Undue Delay, so there is no ongoing Significant Harmful Impact on Relevant Data Subjects, the Exporter must end this IDTA under Section 30.1.

## **28 Breaches of this IDTA by the Exporter**

28.1 If the Exporter has breached this IDTA, and this has a Significant Harmful Impact, the Exporter must take steps Without Undue Delay to end the Significant Harmful Impact and if that is not possible to reduce the Significant Harmful Impact as much as possible.

28.2 Until there is no ongoing risk of a Significant Harmful Impact on Relevant Data Subjects, the Exporter must suspend sending Transferred Data to the Importer.

28.3 If the breach cannot be corrected Without Undue Delay, so there is no ongoing Significant Harmful Impact on Relevant Data Subjects, the Importer must end this IDTA under Section 30.1.

## **Ending the IDTA**

### **29 How to end this IDTA without there being a breach**

29.1 The IDTA will end:

29.1.1 at the end of the Term stated in Table 2: Transfer Details; or

29.1.2 if in Table 2: Transfer Details, the Parties can end this IDTA by providing written notice to the other: at the end of the notice period stated;

29.1.3 at any time that the Parties agree in writing that it will end; or

29.1.4 at the time set out in Section 29.2.

29.2 If the ICO issues a revised Approved IDTA under Section 5.4, if any Party selected in Table 2 "Ending the IDTA when the Approved IDTA changes", will as a direct result of the changes in the Approved IDTA have a substantial, disproportionate and demonstrable increase in:

29.2.1 its direct costs of performing its obligations under the IDTA; and/or

29.2.2 its risk under the IDTA,

and in either case it has first taken reasonable steps to reduce that cost or risk so that it is not substantial and disproportionate, that Party may end the IDTA at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved IDTA.

### **30 How to end this IDTA if there is a breach**

30.1 A Party may end this IDTA immediately by giving the other Party written notice if:

- 30.1.1 the other Party has breached this IDTA and this has a Significant Harmful Impact. This includes repeated minor breaches which taken together have a Significant Harmful Impact; and
- 30.1.2 the breach can be corrected so there is no Significant Harmful Impact, and the other Party has failed to do so Without Undue Delay (which cannot be more than fourteen (14) days of being required to do so in writing); or
- 30.1.3 the breach and its Significant Harmful Impact cannot be corrected; or
- 30.1.4 the Importer can no longer comply with Section 8.3, as there are Local Laws which mean it cannot comply with this IDTA and this has a Significant Harmful Impact.

### **31 What must the Parties do when the IDTA ends?**

31.1 If the parties wish to bring this IDTA to an end or this IDTA ends in accordance with any provision in this IDTA, but the Importer must comply with a Local Law which requires it to continue to keep any Transferred Data then this IDTA will remain in force in respect of any retained Transferred Data for as long as the retained Transferred Data is retained, and the Importer must:

- 31.1.1 notify the Exporter Without Undue Delay, including details of the relevant Local Law and the required retention period;
- 31.1.2 retain only the minimum amount of Transferred Data it needs to comply with that Local Law, and the Parties must ensure they maintain the Appropriate Safeguards, and change the Tables and Extra Protection Clauses, together with any TRA to reflect this; and
- 31.1.3 stop Processing the Transferred Data as soon as permitted by that Local Law and the IDTA will then end and the rest of this Section 31 will apply.

31.2 When this IDTA ends (no matter what the reason is):

- 31.2.1 the Exporter must stop sending Transferred Data to the Importer; and
- 31.2.2 if the Importer is the Exporter's Processor or Sub-Processor: the Importer must delete all Transferred Data or securely return it to the Exporter (or a third party named by the Exporter), as instructed by the Exporter;
- 31.2.3 if the Importer is a Controller and/or not the Exporter's Processor or Sub-Processor: the Importer must securely delete all Transferred Data.

31.3 the following provisions will continue in force after this IDTA ends (no matter what the reason is):

- **Section 1** (*This IDTA and Linked Agreements*);
- **Section 2** (*Legal Meaning of Words*);
- **Section 6** (*Understanding this IDTA*);
- **Section 7** (*Which laws apply to this IDTA*);
- **Section 10** (*The ICO*);
- **Sections 11.1 and 11.4** (*Exporter's obligations*);

- **Sections 12.1.2, 12.1.3, 12.1.4, 12.1.5 and 12.1.6** (*General Importer obligations*);
- **Section 13.1** (*Importer's obligations if it is subject to UK Data Protection Laws*);
- **Section 17** (*Importer's responsibility if it authorised others to perform its obligations*);
- **Section 24** (*Giving notice*);
- **Section 25** (*General clauses*);
- **Section 31** (*What must the Parties do when the IDTA ends*);
- **Section 32** (*Your liability*);
- **Section 33** (*How Relevant Data Subjects and the ICO may bring legal claims*);
- **Section 34** (*Courts legal claims can be brought in*);
- **Section 35** (*Arbitration*); and
- **Section 36** (*Legal Glossary*).

## **How to bring a legal claim under this IDTA**

### **32 Your liability**

- 32.1 The Parties remain fully liable to Relevant Data Subjects for fulfilling their obligations under this IDTA and (if they apply) under UK Data Protection Laws.
- 32.2 Each Party (in this Section, "Party One") agrees to be fully liable to Relevant Data Subjects for the entire damage suffered by the Relevant Data Subject, caused directly or indirectly by:
- 32.2.1 Party One's breach of this IDTA; and/or
  - 32.2.2 where Party One is a Processor, Party One's breach of any provisions regarding its Processing of the Transferred Data in the Linked Agreement;
  - 32.2.3 where Party One is a Controller, a breach of this IDTA by the other Party if it involves Party One's Processing of the Transferred Data (no matter how minimal),

in each case unless Party One can prove it is not in any way responsible for the event giving rise to the damage.

- 32.3 If one Party has paid compensation to a Relevant Data Subject under Section 32.2, it is entitled to claim back from the other Party that part of the compensation corresponding to the other Party's responsibility for the damage, so that the compensation is fairly divided between the Parties.
- 32.4 The Parties do not exclude or restrict their liability under this IDTA or UK Data Protection Laws, on the basis that they have authorised anyone who is not a Party (including a Processor) to perform any of their obligations, and they will remain responsible for performing those obligations.

### **33 How Relevant Data Subjects and the ICO may bring legal claims**

- 33.1 The Relevant Data Subjects are entitled to bring claims against the Exporter and/or Importer for breach of the following (including where their Processing of the Transferred Data is involved in a breach of the following by either Party):
- **Section 1** (*This IDTA and Linked Agreements*);

- **Section 3** (*You have provided all the information required by Part one: Tables and Part two: Extra Protection Clauses*);
- **Section 8** (*The Appropriate Safeguards*);
- **Section 9** (*Reviews to ensure the Appropriate Safeguards continue*);
- **Section 11** (*Exporter's obligations*);
- **Section 12** (*General Importer Obligations*);
- **Section 13** (*Importer's obligations if it is subject to UK Data Protection Laws*);
- **Section 14** (*Importer's obligations to comply with key data protection laws*);
- **Section 15** (*What happens if there is an Importer Personal Data Breach*);
- **Section 16** (*Transferring on the Transferred Data*);
- **Section 17** (*Importer's responsibility if it authorises others to perform its obligations*);
- **Section 18** (*The right to a copy of the IDTA*);
- **Section 19** (*The Importer's contact details for the Relevant Data Subjects*);
- **Section 20** (*How Relevant Data Subjects can exercise their data subject rights*);
- **Section 21** (*How Relevant Data Subjects can exercise their data subject rights– if the Importer is the Exporter's Processor or Sub-Processor*);
- **Section 23** (*Access Requests and Direct Access*);
- **Section 26** (*Breaches of this IDTA*);
- **Section 27** (*Breaches of this IDTA by the Importer*);
- **Section 28** (*Breaches of this IDTA by the Exporter*);
- **Section 30** (*How to end this IDTA if there is a breach*);
- **Section 31** (*What must the Parties do when the IDTA ends*); and
- any other provision of the IDTA which expressly or by implication benefits the Relevant Data Subjects.

- 33.2 The ICO is entitled to bring claims against the Exporter and/or Importer for breach of the following Sections: Section 10 (*The ICO*), Sections 11.1 and 11.2 (*Exporter's obligations*), Section 12.1.6 (*General Importer obligations*) and Section 13 (*Importer's obligations if it is subject to UK Data Protection Laws*).
- 33.3 No one else (who is not a Party) can enforce any part of this IDTA (including under the Contracts (Rights of Third Parties) Act 1999).
- 33.4 The Parties do not need the consent of any Relevant Data Subject or the ICO to make changes to this IDTA, but any changes must be made in accordance with its terms.



- 33.5 In bringing a claim under this IDTA, a Relevant Data Subject may be represented by a not-for-profit body, organisation or association under the same conditions set out in Article 80(1) UK GDPR and sections 187 to 190 of the Data Protection Act 2018.

#### **34 Courts legal claims can be brought in**

- 34.1 The courts of the UK country set out in Table 2: Transfer Details have non-exclusive jurisdiction over any claim in connection with this IDTA (including non-contractual claims).
- 34.2 The Exporter may bring a claim against the Importer in connection with this IDTA (including non-contractual claims) in any court in any country with jurisdiction to hear the claim.
- 34.3 The Importer may only bring a claim against the Exporter in connection with this IDTA (including non-contractual claims) in the courts of the UK country set out in the Table 2: Transfer Details
- 34.4 Relevant Data Subjects and the ICO may bring a claim against the Exporter and/or the Importer in connection with this IDTA (including non-contractual claims) in any court in any country with jurisdiction to hear the claim.
- 34.5 Each Party agrees to provide to the other Party reasonable updates about any claims or complaints brought against it by a Relevant Data Subject or the ICO in connection with the Transferred Data (including claims in arbitration).

#### **35 Arbitration**

- 35.1 Instead of bringing a claim in a court under Section 34, any Party, or a Relevant Data Subject may elect to refer any dispute arising out of or in connection with this IDTA (including non-contractual claims) to final resolution by arbitration under the Rules of the London Court of International Arbitration, and those Rules are deemed to be incorporated by reference into this Section 35.
- 35.2 The Parties agree to submit to any arbitration started by another Party or by a Relevant Data Subject in accordance with this Section 35.
- 35.3 There must be only one arbitrator. The arbitrator (1) must be a lawyer qualified to practice law in one or more of England and Wales, or Scotland, or Northern Ireland and (2) must have experience of acting or advising on disputes relating to UK Data Protection Laws.
- 35.4 London shall be the seat or legal place of arbitration. It does not matter if the Parties selected a different UK country as the 'primary place for legal claims to be made' in Table 2: Transfer Details.
- 35.5 The English language must be used in the arbitral proceedings.
- 35.6 English law governs this Section 35. This applies regardless of whether or not the parties selected a different UK country's law as the 'UK country's law that governs the IDTA' in Table 2: Transfer Details.

#### **36 Legal Glossary**

<b>Word or Phrase</b>	<b>Legal definition (this is how this word or phrase must be interpreted in the IDTA)</b>
Access Request	As defined in Section 23, as a legally binding request (except for requests only binding by contract law) to access any Transferred Data.
Adequate Country	A third country, or:

Word or Phrase	Legal definition (this is how this word or phrase must be interpreted in the IDTA)
	<ul style="list-style-type: none"> <li>• a territory;</li> <li>• one or more sectors or organisations within a third country;</li> <li>• an international organisation;</li> </ul> <p>which the Secretary of State has specified by regulations provides an adequate level of protection of Personal Data in accordance with Section 17A of the Data Protection Act 2018.</p>
Appropriate Safeguards	The standard of protection over the Transferred Data and of the Relevant Data Subject's rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.
Approved IDTA	The template IDTA A1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 5.4.
Commercial Clauses	The commercial clauses set out in Part three.
Controller	As defined in the UK GDPR.
Damage	All material and non-material loss and damage.
Data Subject	As defined in the UK GDPR.
Decision-Making	As defined in Section 20.6, as decisions about the Relevant Data Subjects based solely on automated processing, including profiling, using the Transferred Data.
Direct Access	As defined in Section 23 as direct access to any Transferred Data by public authorities of which the Importer is aware.
Exporter	The exporter identified in Table 1: Parties & Signature.
Extra Protection Clauses	The clauses set out in Part two: Extra Protection Clauses.
ICO	The Information Commissioner.

<b>Word or Phrase</b>	<b>Legal definition (this is how this word or phrase must be interpreted in the IDTA)</b>
Importer	The importer identified in Table 1: Parties & Signature.
Importer Data Subject Contact	The Importer Data Subject Contact identified in Table 1: Parties & Signature, which may be updated in accordance with Section 19.
Importer Information	As defined in Section 8.3.1, as all relevant information regarding Local Laws and practices and the protections and risks which apply to the Transferred Data when it is Processed by the Importer, including for the Exporter to carry out any TRA.
Importer Personal Data Breach	A 'personal data breach' as defined in UK GDPR, in relation to the Transferred Data when Processed by the Importer.
Linked Agreement	The linked agreements set out in Table 2: Transfer Details (if any).
Local Laws	Laws which are not the laws of the UK and which bind the Importer.
Mandatory Clauses	Part four: Mandatory Clauses of this IDTA.
Notice Period	As set out in Table 2: Transfer Details.
Party/Parties	The parties to this IDTA as set out in Table 1: Parties & Signature.
Personal Data	As defined in the UK GDPR.
Personal Data Breach	As defined in the UK GDPR.
Processing	As defined in the UK GDPR.  When the IDTA refers to Processing by the Importer, this includes where a third party Sub-Processor of the Importer is Processing on the Importer's behalf.
Processor	As defined in the UK GDPR.
Purpose	The 'Purpose' set out in Table 2: Transfer Details, including any purposes which are not incompatible with the purposes stated or referred to.

<b>Word or Phrase</b>	<b>Legal definition (this is how this word or phrase must be interpreted in the IDTA)</b>
Relevant Data Subject	A Data Subject of the Transferred Data.
Restricted Transfer	A transfer which is covered by Chapter V of the UK GDPR
Review Dates	The review dates or period for the Security Requirements set out in Table 2: Transfer Details, and any review dates set out in any revised Approved IDTA.
Significant Harmful Impact	As defined in Section 26.2 as where there is more than a minimal risk of the breach causing (directly or indirectly) significant harm to any Relevant Data Subject or the other Party.
Special Category Data	As described in the UK GDPR, together with criminal conviction or criminal offence data.
Start Date	As set out in Table 1: Parties and signature.
Sub-Processor	A Processor appointed by another Processor to Process Personal Data on its behalf.  This includes Sub-Processors of any level, for example a Sub-Sub-Processor.
Tables	The Tables set out in Part one of this IDTA.
Term	As set out in Table 2: Transfer Details.
Third Party Controller	The Controller of the Transferred Data where the Exporter is a Processor or Sub-Processor  If there is not a Third Party Controller this can be disregarded.
Transfer Risk Assessment or TRA	A risk assessment in so far as it is required by UK Data Protection Laws to demonstrate that the IDTA provides the Appropriate Safeguards
Transferred Data	Any Personal Data which the Parties transfer, or intend to transfer under this IDTA, as described in Table 2: Transfer Details
UK Data Protection Laws	All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.

<b>Word or Phrase</b>	<b>Legal definition (this is how this word or phrase must be interpreted in the IDTA)</b>
UK GDPR	As defined in Section 3 of the Data Protection Act 2018.
Without Undue Delay	Without undue delay, as that phrase is interpreted in the UK GDPR.

Alternative Part 4 Mandatory Clauses:

<b>Mandatory Clauses</b>	Part 4: Mandatory Clauses of the Approved IDTA, being the template IDTA A.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 5.4 of those Mandatory Clauses.
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**SCHEDULE 12 – COLLABORATION AGREEMENT**

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- (1) THE DIRECTOR OF SAVINGS;
  - (2) [PROVIDER OF DIGITAL INTEGRATION AND SERVICE OPERATIONS];
  - (3) [PROVIDER OF DIGITAL EXPERIENCE AND DIGITAL ENABLEMENT];
  - (4) [PROVIDER OF CUSTOMER CONTACT AND OPERATIONS];
- AND
- (5) [PROVIDER OF CORE BANKING, PAYMENT AND REPORTING]

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#### COLLABORATION AGREEMENT

For the four interfacing technology service packages  
(Digital Integration and Service Operations, Digital  
Experience and Digital Enablement, Customer Contact  
and Operations and Core Banking, Payment and  
Reporting) that the Director is procuring to support their  
overall product offering

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**BETWEEN:**

- (1) **The Director of Savings** (the Director); and
- (2) [Provider of Digital Integration and Service Operations];
- (3) [Provider of Digital Experience and Digital Enablement];
- (4) [Provider of Customer Contact and Operations]; and
- (5) [Provider of Core Banking, Payment and Reporting]

Parties (2) to (5) each a Supplier and collectively the Suppliers, and parties (1) to (5), each a Party and collectively the Parties.

**INTRODUCTION**

- (A) The Director is seeking to procure Suppliers to deliver a range of services to replace the existing service provider.
- (B) Each of the Suppliers for the four interfacing technology services packages will deliver their respective Services to the Director independently under their respective Service Agreement.
- (C) In connection with their respective Service Agreements with the Director, the Suppliers wish to enter into this Agreement with each other and with the Director in order to ensure the smooth and effective delivery of an "end to end" service to the Director which achieves customer satisfaction and to document in the necessary level of detail the particulars and Dependencies of the manner in which they will cooperate in providing the Services to the Director.
- (D) The Parties acknowledge that the Director will perform and be responsible for the service integration and management (SIAM) role.
- (E) Each time a new or replacement Supplier is procured a deed of accession will be executed. Each new Supplier will be joined to this Agreement by a Deed of Accession in the form set out in Schedule 4Part 1 and each replacement Supplier of an existing Supplier will be joined to this Agreement by a Deed of Accession in the form set out in Schedule 4Part 2. Each Deed of Accession will also be signed by all existing Suppliers and the Director.
- (F) During the Term of this Agreement the Suppliers will have an ongoing obligation to update their Dependencies, the Responsibility Matrix and the Operations Manual.

**IT IS AGREED** as follows:

## **1 DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears. Where a term is capitalised but not defined herein, it shall have the same meaning as defined in the relevant Supplier's Service Agreement.
- 1.2 In this Agreement, unless the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa;
  - 1.2.2 reference to a gender includes the other gender and the neuter;
  - 1.2.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
  - 1.2.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.2.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
  - 1.2.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.2.7 the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;
  - 1.2.8 unless otherwise provided references to clauses and Schedules are references to the clauses and schedules of this Agreement and references in any Schedule to Paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear; and
  - 1.2.9 references to this Agreement are references to this Agreement as amended from time to time.
- 1.3 Where a standard, policy or document is referred to in this Agreement by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, a Supplier shall notify the Director and the Parties shall update this Agreement with a reference to the replacement hyperlink.
- 1.4 Time is not of the essence of any obligation of the Director under this Agreement and may not be made of the essence by service of notice.
- 1.5 If there is any conflict between the clauses and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
- 1.5.1 the Clauses and Schedule 1 (Definitions);
  - 1.5.2 the Schedules and any Annexes.

- 1.6 If and to the extent of any conflict or inconsistency between this Agreement and a Service Agreement, in the first instance, the parties shall work together in good faith to determine the order of precedence. Where the Parties are unable to agree the order of precedence shall be determined by the Director at its discretion.
- 1.7 The Schedules and their Annexes form part of this Agreement.
- 1.8 The rights and obligations contained in this Agreement shall be additional to and not in substitution for those contained in the Service Agreements.
- 1.9 In entering into this Agreement the Director is acting as part of the Crown.

## **2 COMMENCEMENT AND TERM**

- 2.1 This Agreement shall take effect:
- 2.1.1 for each Supplier from their respective Commencement Date until the termination or expiry of their respective Service Agreements or, if earlier, until terminated in accordance with the termination provisions in Clause 19 of this Agreement; or
- 2.1.2 for the Director from the first Supplier's Commencement Date and shall continue until terminated in accordance with the termination provisions in Clause 19 of this Agreement,
- (in each case, the "**Term**").

## **3 FUNDAMENTAL PURPOSE**

- 3.1 This Agreement is intended to create binding rights and obligations between each Supplier to the Relevant Third Party Suppliers and to the Director to:
- 3.1.1 enable the achievement of the fundamental business objectives set out in Clause 4.6;
- 3.1.2 enable the Suppliers to deliver their respective Services in accordance with the terms of their respective Service Agreements;
- 3.1.3 support the Director in its role as SIAM;
- 3.1.4 co-operate with the Relevant Third Party Suppliers in order for each and all of the Suppliers to be able to successfully provide their Services in accordance with the terms of their respective Service Agreements and to ensure the effective and seamless delivery of the End to End Services to the Director; and
- 3.1.5 place each Supplier under an obligation to ensure that their Dependencies are fully met within the required timescales as may be set out in the Operations Manual.

## **4 PRINCIPLES OF CO-OPERATION**

- 4.1 The co-operation, support, information and assistance to be provided by the Parties pursuant to this Agreement shall be provided in accordance with the following principles:
- 4.1.1 the principle that each Party shall provide its cooperation, support, information and assistance in a proactive, transparent and open way and in a spirit of trust and mutual confidence;
- 4.1.2 the principle of '*fix first, discuss later*', requiring that each Party shall concentrate on solving a problem as expeditiously and cost effectively as possible and leave any Disputes as to which Supplier is responsible, which Supplier should bear the cost of fixing the problem and any associated legal issues until resolution of the relevant problem;

4.1.3 the principle that co-operative behaviour and overall cost efficiency should be promoted. For the avoidance of doubt, if a Service Agreement or this Agreement allows for the performance of a certain obligation in different ways, then such Supplier shall in good faith:

- (a) take the cost impact of its choice on itself and the Relevant Third Party Suppliers into consideration when making such choice; and
- (b) refrain from knowingly choosing an option which would significantly and without justification increase the costs of its delivery of the Services, any of the Relevant Third Party Suppliers' Services and/or of the Director's obligations; and

4.1.4 the principle that the Parties shall procure the adherence of employees and Sub-contractors to these co-operation requirements.

4.2 The Suppliers and the Director will each designate a collaboration manager (a **Collaboration Manager**) who, as from the relevant Commencement Date, will be responsible for managing the collaboration relationship between the Parties and will have authority to act on behalf of the designating Party in all matters pertaining to this Agreement and who will ensure compliance with their obligations set out in this Agreement.

4.3 The Director may request and require the removal or replacement of a Supplier's designated Collaboration Manager by written notice to the relevant Supplier. Any such notice may be issued by the Director at the Director's discretion although the Director may provide the Supplier with its reasons for such replacement request. The recipient Supplier shall comply with such notice and replace its Collaboration Manager in accordance with the timeframe specified in the written notice (or as otherwise notified by the Director).

4.4 Each Supplier may request via a written notice to the Director that a Relevant Third Party Supplier's designated Collaboration Manager should be replaced or removed. The request from the Supplier should include detailed reasons for such request. Where the Director requires further information from the relevant requesting Supplier(s), the Supplier(s) shall promptly provide such information following such a request from the Director. Any request to replace a Relevant Third Party Supplier's designated Collaboration Manager shall be considered by the Director who may, at their sole discretion, decide to request replacement or removal of their Collaboration Manager pursuant to Clause 4.3, as applicable.

4.5 The Parties agree and acknowledge that they will act:

- 4.5.1 in good faith;
- 4.5.2 in an open and trusting manner;
- 4.5.3 in a co-operative way;
- 4.5.4 in a way to avoid Disputes by adopting a no-blame culture;
- 4.5.5 fairly towards each other;
- 4.5.6 evaluating the skills and respecting the responsibilities of each other; and
- 4.5.7 constructively to resolve any Dispute or difference in a speedy and positive manner,

in carrying out their respective obligations and providing their respective Services and the End to End Services to achieve the objectives referred to in Clause 4.6 below.

4.6 The Parties agree and acknowledge that they will work together to achieve the following objectives:

4.6.1 in connection with the delivery of Services and the End to End Services:

- (a) to seek excellence;

- (b) to adopt a continuous improvement culture;
- (c) to encourage innovation and the efficient use of resources;
- (d) to maximise the efficiency of their contributions; and
- (e) to utilise best and safest practice;

4.6.2 in connection with people:

- (a) to have consideration for Service Recipients and other persons affected by the Services;
- (b) to respect all persons;
- (c) to promote an enjoyable and healthy working environment;
- (d) to provide training and staff development;
- (e) to foster tolerance; and
- (f) to facilitate openness in dealings;

4.6.3 in connection with team working:

- (a) to plan and promote clear and effective communication;
- (b) to engender a working environment that is conducive to shared problem solving;
- (c) to provide mutual support;
- (d) to share information where possible and practicable;
- (e) to involve all members of the supply chain including Sub-contractors in the collaboration concept; and
- (f) to build relationships with the other Suppliers;

4.6.4 in connection with commercial issues:

- (a) to add value and enhance reputations;
- (b) to create incentives for maximising the rewards of all Parties;
- (c) to provide transparency and certainty of information;
- (d) to provide feedback; and
- (e) to share opportunities and risk.

## 5 CO-OPERATION OBLIGATIONS

- 5.1 Each Supplier shall, and shall procure that its Sub-contractors shall, co-operate fully with each of the Relevant Third Party Suppliers and with the Director and shall provide such co-operation, support, assistance, reporting and information to each other Party hereunder as is necessary in relation to this Agreement and/or necessary in support of a Dependency and/or in accordance with the Operations Manual and/or as may be required by the Director, in order that the objectives set out in Clauses 3 and 4 are satisfied and that each Relevant Third Party Supplier complies with their obligations under this Agreement in particular those obligations in Clauses 6 and 7 provided always that each Supplier

shall when complying with this Clause 5 ensure that its acts and omissions do not prevent a Relevant Third Party Supplier from complying with their obligations under this a Agreement and/or their respective Service Agreement.

5.2 Without prejudice to the generality of Clause 5.1 and the obligations of each Supplier pursuant to their respective Service Agreement, each Supplier commits to the Relevant Third Party Suppliers and the Director that as part of their general co-operation obligations described in Clause 5.1 it shall:

- 5.2.1 work together in good faith to ensure integration and interfacing where Services are subject to inter-Party dependencies;
- 5.2.2 individually and collectively work to ensure that their delivery of the Services do not conflict with and, to the fullest extent possible, support, the Director's strategies and outcomes as published or as notified to the Suppliers from time to time;
- 5.2.3 operate and maintain all Software, hardware or technology in accordance with Good Industry Practice and in any event, in accordance with the terms set out in their respective Service Agreements and any plans for refresh or maintenance of such assets as may be notified by the Director to the Suppliers from time to time;
- 5.2.4 assist with any testing and/or any quality assurance analysis to be undertaken by the Director or any Relevant Third Party Supplier;
- 5.2.5 ensure that each Collaboration Manager engages in a regular dialogue with each of the other Collaboration Managers both individually and collectively to ensure that the Relevant Third Party Suppliers each have a constructive relationship with each other which allows for the delivery of the co-operation and collaboration objectives set out in this Agreement to be achieved;
- 5.2.6 promptly provide the Relevant Third Party Suppliers and, if applicable, the relevant members of their Supplier Group with all relevant information (including details of all operating environments, system constraints, all relevant information concerning interfacing, interoperation and operating parameters that may be reasonably required by the Relevant Third Party Suppliers) that they may need to provide their Services to the Director; and
- 5.2.7 promptly escalate any issues or perceived problems via the governance regime to the appropriate Working Group, Forum and/or Committee as required under each Supplier's respective Service Agreement;

Provided always that:

- 5.2.8 no Supplier shall be obliged to act in a way that would require it to perform obligations of another Relevant Third Party Supplier under its respective Service Agreement.

## **6 COMPLIANCE WITH SERVICE AGREEMENTS AND THIS AGREEMENT**

6.1 Each Supplier commits to each of the Relevant Third Party Suppliers and to the Director that it shall:

- 6.1.1 perform its obligations under and deliver the relevant Services in accordance with their relevant Service Agreement;
- 6.1.2 comply with the terms of this Agreement and ensure their Sub-contractors comply with the terms of this Agreement;
- 6.1.3 perform its obligations (including any of its Dependencies as agreed from time to time) in accordance with the terms of this Agreement;

- 6.1.4 avoid undue disturbance to the Director and, as applicable, to the Relevant Third Party Suppliers and seek to minimise the active involvement of the Director in minor matters that can be addressed and resolved between Suppliers;
- 6.1.5 avoid any unnecessary duplication of effort by the Supplier itself or, as far as possible, the Relevant Third Party Suppliers;
- 6.1.6 ensure compliance with their co-operation obligations within this Agreement to facilitate the delivery and avoid hindering the provision of any of the Services by the Relevant Third Party Suppliers and enable the Relevant Third Party Suppliers to deliver their respective obligations in accordance with terms of their respective Service Agreement;
- 6.1.7 ensure that their Dependencies are fully met within the required timescales as set out in the Operations Manual or as otherwise notified by the Director and allocate sufficient resource with the appropriate technical expertise to perform the Dependencies;
- 6.1.8 undertake all such tasks and activities as may be necessary to integrate the systems and Services with all other relevant systems and the Services of Relevant Third Party Suppliers and/or the Director;
- 6.1.9 ensure that its activities positively support each Relevant Third Party Supplier's achievement of Customer Satisfaction;
- 6.1.10 ensure that its representatives attend meetings (including, without limitation, Committees, Forums or Working Groups) when invited directly or indirectly by the Director and/or other Relevant Third Party Suppliers and that such representatives are co-operative, engaged, forward-thinking and actively participate in such meetings to facilitate engaged and efficient discussions;
- 6.1.11 provide the Director, or its third party representatives, with full access to the Supplier's resources, systems, data, documents, Software and other relevant information to enable the Director, either directly or indirectly, to carry out appropriate management and/or to deal with security and/or compliance issues, assessments and actions and/or interventions as required; and
- 6.1.12 ensure that within the Partnership Development Working Group, individually and collectively, each Collaboration Manager are proactive in anticipating, preventing and resolving potential future issues that may be foreseeable in connection with the delivery of any of the Services.

## **7 ROLE OF THE SUPPLIERS**

- 7.1 Each Supplier acknowledges and agrees that the Services will be best delivered by them to the Director if:
  - 7.1.1 they are carried out by itself and each Relevant Third Party Supplier in the spirit of co-operation and collaboration; and
  - 7.1.2 supportive communications are established and maintained for the Term.
- 7.2 Each Supplier acknowledges and agrees:
  - 7.2.1 to comply with all policies and procedures and technical interface standards that are specified by the Director (or the Nominated Lead in accordance with its Delegated Authority) as such may be amended or replaced from time to time and any and all instructions given by the Director in accordance with Clause 8 and/or any and all instructions given by the Nominated Lead in accordance with Clause 7.19.1;
  - 7.2.2 to comply with their reporting and collaboration obligations under this Agreement including, without limitation, Clauses 5, 6, 7 and 10 and any decision or instruction of the

Director in relation to this Agreement and/or the delivery of their Services in accordance with their Service Agreements; and

7.2.3 that failure to comply with Clauses 7.1.1, 7.2.1 or 7.2.2 of this Agreement shall constitute a breach of this Agreement and also a breach of that Supplier's respective Service Agreement.

7.3 Where any Supplier breaches or becomes aware that it or a Relevant Third Party Supplier is likely to fail to comply with:

7.3.1 any obligation of the relevant Service Agreement and that the failure could impact on the performance of the Services by any Relevant Third Party Supplier, the Supplier shall as soon as is reasonably practicable and in any event within three (3) Working Days of becoming aware notify the Director of such breach or likely breach; or

7.3.2 any obligation under this Agreement and that the failure could impact on the performance of the Services by any Relevant Third Party Supplier, the Supplier shall as soon as is reasonably practicable and in any event within three (3) Working Days of becoming aware notify the Director and all Relevant Third Party Suppliers of such breach or likely breach provided always that in circumstances where the Director or a Relevant Third Party Supplier becomes aware that another Relevant Third Party Supplier's failure to comply with its obligations could impact on its or a Relevant Third Party Supplier's performance of its Services it shall notify the Relevant Third Party Supplier(s).

7.4 Where any Supplier becomes aware of an event, incident or Delay that could impact on the performance of:

7.4.1 its own Services, the Supplier shall as soon as is reasonably practicable notify the Director of such event, incident or Delay; or

7.4.2 the Services by any Relevant Third Party Supplier, the Supplier shall as soon as is reasonably practicable notify the Director and all Relevant Third Party Suppliers of such event, incident or Delay.

7.5 Where any notice is issued pursuant to Clause 7.3 and/or Clause 7.4, the Supplier who is the subject of the notice must as soon as possible and in any event within any timeframe specified by the Director calculated from when the Supplier becomes aware of the breach, event, incident or Delay ("**Event**") and unless the Director specifies otherwise:

7.5.1 as soon as possible provide an initial response in writing to the Director confirming or denying if the relevant Event will have any actual or anticipated impact upon the Supplier's delivery of the Services and/or the End to End Services;

(a) if the relevant Event does impact upon the Supplier's delivery of the Services and/or the End to End Services the Supplier shall identify within their response what they consider the impacts are and provide an estimate for the costs associated with this impact and any mitigation, rectification measures and costs; or

(b) if the relevant Event does not impact upon the Supplier's delivery of the Services and/or the End to End Services the Supplier shall not be required to take any further action in relation to the Event unless the Director instructs them otherwise;

7.5.2 then, where the Supplier is impacted by the relevant Event, the Supplier shall provide a further detailed response to the Director with possible solutions accompanied with a timescale to:

(a) resolve, avoid and/or mitigate the impact of the Event on the Services and the End to End Services; and

(b) suggest solutions to prevent the Event from recurring;



- 7.5.3 as instructed by the Director, meet with the Director and/or Relevant Third Party Supplier(s), to discuss their findings and any solutions to ensure maximum efficiency and uninterrupted End to End Services for the Director; and
- 7.5.4 comply with any instruction from the Director in relation to the Event.
- 7.6 Where the Rectification Plan Process is instigated under any of the Service Agreements and a draft Rectification Plan is required from a Supplier, the relevant Supplier shall (prior to issuing the draft Rectification Plan to the Director) and unless the Director specifies otherwise:
  - 7.6.1 notify all Relevant Third Party Suppliers that it will be issuing a draft Rectification Plan to the Director as soon as possible and in any event within at least five (5) Working Days;
  - 7.6.2 provide all Relevant Third Party Suppliers with a copy of the proposed draft Rectification Plan which shall include sufficient detail outlining the draft Rectification Plan;
  - 7.6.3 request the Relevant Third Party Supplier respond with details as to whether and how the proposed draft Rectification Plan may have any impact upon their Services; and
  - 7.6.4 if any of the Relevant Third Party Suppliers are impacted, the Supplier shall, prior to submission to the Director of a draft Rectification Plan, engage with all impacted Relevant Third Party Suppliers to collaboratively develop and finalise a draft Rectification Plan which shall take into consideration the impacts upon the Relevant Third Party Supplier's Services. The Supplier responsible for the draft Rectification Plan shall respond to each of the Relevant Third Party Suppliers to notify them if their responses have been fully or partially incorporated into the draft Rectification Plan at the time of or before submitting it to the Director.
- 7.7 Each Relevant Third Party Supplier who receives a notification pursuant to Clause 7.6 shall comply with the following process as far as it does not conflict with any of their obligations under their Service Agreement in relation to the Rectification Plan Process and unless the Director specifies otherwise:
  - 7.7.1 subject to Clause 7.9, as soon as possible but no later than one (1) Working Day from receipt, provide a response to the relevant Supplier to confirm or deny whether the proposed draft Rectification Plan will have any actual or anticipated impact upon their delivery of the Services and/or the End to End Services:
    - (a) if the proposed draft Rectification Plan does impact upon the their delivery of the Services and/or the End to End Services they shall identify within their initial response what they consider the impacts are and provide an estimate for the costs associated with this; or
    - (b) if the proposed draft Rectification Plan does not impact upon their delivery of the Services and/or the End to End Services they shall not be required to take any further action in relation to the draft Rectification Plan or agreed Rectification Plan unless the Director instructs them otherwise;
  - 7.7.2 then, where the Relevant Third Party Supplier is impacted by the proposed draft Rectification Plan, they shall:
    - (a) review, consider and scrutinise the proposed draft Rectification Plan in consideration of the actual or anticipated impact (including, without limitation, cost implications) upon their respective Services and the End to End Services; and
    - (b) as soon as possible but no later than three (3) Working Days from their initial response pursuant to Clause 7.7.1, provide a further detailed response to the issuing Supplier advising them on the outcome of their findings, such as (without limitation), what the implications would be, how long they anticipate they would need to perform any relevant changes under the draft Rectification Plan, a detailed cost breakdown and resource implications with making the changes; and

- (c) suggest alternative solutions and/or to amendments to the draft Rectification Plan with a proposed amended timescale, as applicable; and
- 7.7.3 as instructed by the Director, meet with the Director and the Relevant Third Party Suppliers:
  - (a) to highlight and explain any actual or anticipated impact that the proposed method of rectification would have upon the recipient Supplier's delivery of the Services and/or the End to End Services; and
  - (b) to discuss and develop the draft Rectification Plan and/or agreed Rectification Plan, as applicable, identifying potential solutions to reduce the impact of the draft Rectification Plan or agreed Rectification Plan, as applicable, on its Services and the End to End Services; and
- 7.7.4 if relevant, review any amends made by the Director to the draft Rectification Plan or the agreed Rectification Plan and provide written confirmation of whether they are impacted by the revised plan and, if so, what the impact would be.
- 7.8 All Suppliers shall comply with any agreed Rectification Plan issued by the Director to the extent it applies to them and their provisions of their Services.
- 7.9 Where the proposed draft Rectification Plan issued pursuant to Clause 7.6 does not contain sufficient detail for the Relevant Third Party Supplier to determine the impact upon their Services, the Relevant Third Party Supplier shall notify the issuing Supplier and request additional information. Upon receipt of the requested additional information pursuant to Clause 7.7.1, the recipient Supplier shall respond as soon as possible.
- 7.10 Where a Remedial Adviser is or is about to be appointed under any of the Service Agreements the Director shall notify the Relevant Third Party Suppliers who shall each comply with the following process as far as the following process does not conflict with any of their obligations under their respective Service Agreement in relation to the Remedial Adviser appointment and unless the Director specifies otherwise:
  - 7.10.1 as soon as possible provide the Remedial Adviser with an overview of any impact which the Intervention Cause has or may have upon their delivery of the Services and/or the End to End Services including, without limitation:
    - (a) what the impacts are;
    - (b) how long they anticipate they would need to rectify the impact;
    - (c) the risks of re-occurrence;
    - (d) an estimate for the associated costs; and
    - (e) any potential solutions to mitigate or prevent the impact caused by the Intervention Cause;
  - 7.10.2 promptly respond to any Remedial Adviser's request for information or otherwise in relation to the relevant Intervention Cause for which the Remedial Adviser has been appointed;
  - 7.10.3 as instructed, meet with the Remedial Adviser and, if relevant, any other Relevant Third Party Suppliers:
    - (a) to discuss possible remedies to the Intervention Cause and, as applicable, identifying potential solutions to reduce the impact of the any possible remedies to the Intervention Cause on its Services and the End to End Services;

- (b) if relevant, review any proposal provided by the Remedial Adviser and confirm whether it impacts upon them and, if so, what the impact would be; and

7.10.4 as far as applicable, comply with any process put in place by the Remedial Adviser.

7.11 Where a Change Communication is issued to a Supplier the recipient Supplier(s) shall, and ensure that its Sub-contractors shall, comply with the following process, as far as the following process does not conflict with any of the Supplier's obligations under their respective Service Agreement in relation to the Change Control Procedure and unless the Director specifies otherwise:

7.11.1 as soon as possible provide a response to the Director to confirm or deny whether the relevant Change will have any actual or anticipated impact upon their delivery of their Services and/or the End to End Services:

7.11.2 following the receipt of a request from the Director:

- (a) work with the Relevant Third Party Suppliers and the Director during any Definition Phase to identify the scope of the relevant Change Proposal; and/or
- (b) work with the Relevant Third Party Suppliers and the Director during the preparation of an Impact Assessment to ensure the submission of a sufficiently detailed Impact Assessment by all relevant Suppliers when required in relation to any Change and within any timelines specified.
- (c) respond to any further requests for information or changes to any Impact Assessment so as to allow for a comprehensive Impact Assessment from all affected Suppliers to be returned to the Director;

7.11.3 liaise with the Director and the Relevant Third Party Suppliers to develop, maintain, deliver and monitor any Change in accordance with any Change Authorisation Note; and

7.11.4 comply with any Change issued by the Director.

7.12 The Director has the ambition to establish a more flexible and agile mechanism for the delivery of Change across the End to End Services. The Director and Suppliers will work together to develop such approach which may then require a Change to one or more of the Service Agreements.

7.13 Where a Continuous Improvement Plan is issued by the Director, the Suppliers shall comply with the following process, as far as the following process does not conflict with any of their obligations under their respective Service Agreement in relation to the Continuous Improvement Plan and unless the Director specifies otherwise:

7.13.1 as soon as possible following identifying any Initiatives to improve the Continuous Improvement Plan notify the Relevant Third Party Suppliers and the Initiative and any actual or anticipated impact upon the delivery of the Services and/or the End to End Services requesting a response from the Relevant Third Party Suppliers in regards to any further impact they identify in relation to the Initiative;

7.13.2 upon receipt of a response from a Relevant Third Party Supplier regarding the Initiative, the Supplier shall build in the Relevant Third Party Supplier's comments and work with the Relevant Third Party Suppliers to develop the Initiative;

7.13.3 as soon as possible following the development of the Initiative pursuant to Clause 7.13.2 or if no responses are received by the Supplier within ten (10) Working Days from notification to the Relevant Third Party Suppliers, notify the Director of the Initiative and any actual or anticipated impact upon the delivery of the Services and/or the End to End Services;

7.13.4 following the submission of an Initiative to the Director, as instructed by the Director either:

- (a) work with the Relevant Third Party Suppliers and the Director to identify the scope of the relevant Initiative and impact upon the Continuous Improvement Plan; and/or
  - (b) submit a sufficiently detailed Initiative to the Director in accordance with Schedule 8.8 (*Continuous Improvement*) of the Supplier's respective Service Agreement;
- 7.13.5 liaise with the Director and the Relevant Third Party Suppliers to develop, maintain, deliver and monitor any Change Request in accordance with any Initiative; and
- 7.13.6 comply with any decision of the Director in relation to any Initiative and/or any Continuous Improvement Plan.
- 7.14 Each Relevant Third Party Supplier of such notification pursuant to Clause 7.13 shall, as far as the former does not conflict with any of their obligations under their respective Service Agreement in relation to the Continuous Improvement Plan and unless the Director specifies otherwise, respond to the Supplier with sufficient detail of any impact the relevant Initiative has or may have upon their Services within ten (10) Working Days of receipt and, where impacted by the Initiative, work with the issuing Supplier to develop the Initiative to incorporate all identified impacts upon the Services.
- 7.15 For the avoidance of doubt, where a response is not submitted to the Supplier or the Director, as applicable, in relation to any of the processes under this Clause 7, it shall be deemed that the Relevant Third Party Supplier is not impacted by the relevant Event, Rectification Plan, Initiative, or Change proposed in such notice, as applicable, and the Director shall not have any liability in relation to any undeclared impact upon the Relevant Third Party Supplier.
- 7.16 Each Supplier shall promptly provide to the Director, as requested, any further documentation that they may require to assess any of the Supplier's proposed solutions provided in accordance with this Clause 7.
- 7.17 The Director shall have absolute discretion in deciding whether to implement any of the Supplier's proposed solutions in accordance with this Clause 7.
- 7.18 Each Supplier hereby acknowledges and agrees that where it requires a Relevant Third Party Supplier to comply with its terms and conditions or other specific documentation requirements (including internal policy and procedure) in relation to the performance of any Dependencies it shall:
  - 7.18.1 each time seek prior written approval from the Director in relation to any terms and conditions or other specific documentation requirements (including internal policy and procedure);
  - 7.18.2 following receipt of the Director's approval, provide the Relevant Third Party Supplier with the approved documents with an explanation of why the Supplier requires their compliance with such; and
  - 7.18.3 work together with the Relevant Third Party Suppliers to discuss and agree the additional documentation required for the performance of any Dependencies.
- 7.19 Each Supplier acknowledges and agrees that where the Director has granted the Delegated Authority to the Nominated Lead and informed the Suppliers, all Suppliers agree:
  - 7.19.1 to comply with any decision or instruction of the Nominated Lead that is in compliance with its Delegated Authority as if it were a decision or instruction of the Director; and
  - 7.19.2 if any of the Suppliers considers that the Nominated Lead is:
    - (a) acting or seeking to act beyond the Delegated Authority; or
    - (b) failing to take decisions or give instructions in accordance with the Delegated Authority within a reasonable time;

the Supplier shall:

- (c) inform the Director immediately; and
- (d) inform the Nominated Lead immediately and, to the extent reasonably practicable, seek to ensure that the Nominated Lead acts in accordance with the Delegated Authority.

## **8 ROLE OF THE DIRECTOR**

8.1 Where the Director is made aware of or, acting reasonably, considers that there has been or may be any event, incident or Delay in accordance with Clause 7.4, the Director shall, where required, take steps to resolve, avoid and/or mitigate the impact of the event, incident or Delay including, without limitation:

8.1.1 notifying Relevant Third Party Suppliers about the event, incident or Delay if the Director reasonably considers it may impact the Relevant Third Party Suppliers; and

8.1.2 requiring that the Suppliers fully comply with:

- (a) their obligations to *'fix first, discuss later'* in accordance with Clause 4.1.2 of this Agreement;
- (b) any measures required by the Relevant Third Party Suppliers under Clause 7.5 of this Agreement;
- (c) their relevant obligations under this Agreement; and
- (d) any additional measures that the Director instructs acting reasonably to resolve, avoid and/or mitigate the impact of the event, incident or Delay.

8.2 Where the Director is made aware of or, acting reasonably, considers that there has been or may be any breach of Supplier obligations under the Service Agreement or this Agreement including Clause 7.3, the Director shall, where required, take steps to resolve, avoid and/or mitigate the impact of the breach including, without limitation:

8.2.1 notifying Relevant Third Party Suppliers about the breach if the Director reasonably considers it may impact Relevant Third Party Suppliers;

8.2.2 requiring that the Suppliers fully comply with:

- (a) their obligations to *'fix first, discuss later'* in accordance with Clause 4.1.2 of this Agreement;
- (b) any measures required by the Relevant Third Party Suppliers under Clause 7.5 of this Agreement;
- (c) their relevant obligations under this Agreement; and
- (d) any additional measures that the Director instructs acting reasonably to resolve, avoid and/or mitigate the impact of the breach.

8.3 Where the Director is made aware of or, acting reasonably, considers that remedial action is or may be required under a Service Agreement (including, without limitation, pursuant to Clauses 29 (*Rectification Plan Process*) or 30 (*Remedial Adviser*) of the Service Agreement) the Director shall, where required, take steps to ensure performance of the remedial actions and procedures and to resolve, avoid and/or mitigate the impact of the remedial action including, without limitation:

- 8.3.1 notifying any and all Suppliers about the remedial action if the Director reasonably considers it may impact upon them; and
- 8.3.2 requiring the Suppliers fully comply with:
  - (a) any measures required by the Relevant Third Party Supplier under Clauses 7.6, 7.7, 7.9 and/or 7.10 of this Agreement;
  - (b) their relevant obligations under this Agreement; and
  - (c) any additional measures that the Director considers reasonable to resolve, avoid and/or mitigate the impact of the remedial action.
- 8.4 Where the Director is made aware of or, acting reasonably, considers that there shall or may be a Change required under the Service Agreement the Director shall, where required, take steps to resolve, avoid and/or mitigate the impact of the Change including, without limitation:
  - 8.4.1 notifying any and all Supplier about the Change if the Director reasonably considers it may impact upon them; and
  - 8.4.2 requiring the Suppliers to fully comply with:
    - (a) any measures required under Clause 7.11 of this Agreement;
    - (b) their relevant obligations under this Agreement; and
    - (c) any additional measures that the Director considers reasonable to resolve, avoid and/or mitigate the impact of the Change.
- 8.5 Where the Director is made aware of or, acting reasonably, considers that there shall or may be a requirement to improve the Services under one or more the Service Agreement and/or the End to End Services, the Director shall, take steps to enforce and implement the improvement including, without limitation:
  - 8.5.1 notifying any and all Supplier about the improvement identified if the Director reasonably considers it may impact upon them; and
  - 8.5.2 require the Suppliers fully comply with:
    - (a) any measures required under Clause 7.13 of this Agreement; and
    - (b) providing feedback on the improvement and suggests any amendments that they may require to ensure maximum efficiency and uninterrupted End to End Services for the Director;
    - (c) engaging with the Director and Relevant Third Party Suppliers to ensure the improvement efficiently addresses each Supplier's needs;
    - (d) their obligations under Clause 10 of this Agreement to keep the Operations Manual (including Dependencies) updated;
    - (e) their obligations under this Agreement;
    - (f) adopting any measures required by them under the provisions of their Service Agreement; and
    - (g) taking any additional measures that the Director considers reasonable to address, introduce and/or implement the improvement mechanism and resolve, avoid and/or mitigate the impact of the improvement.

## **9 ROLE OF THE NOMINATED LEAD**

- 9.1 The Director may from time to time appoint a Nominated Lead to act on the Director's behalf in relation to any of the Director's rights and responsibilities under Clauses 7, 8, and/or 10 as if the Nominated Lead were the Director.
- 9.2 The Nominated Lead shall at all times perform any of the any of the delegated Director's rights and responsibilities in compliance with its Delegated Authority and Suppliers shall notify the Nominated Lead in place of the Director.

## **10 OPERATIONS MANUAL & DEPENDENCIES**

- 10.1 Without prejudice to the remainder of this Clause 10, the Dependencies are binding on the Parties. The Parties acknowledge that the Operations Manual as described and updated pursuant to this Clause 10 is to be a guide. The Operations Manual will be a 'live' document which shall evolve throughout the duration of this Agreement to record the Responsibility Matrix and Dependencies between the Suppliers and the Director in relation to the Services and End to End Services.
- 10.2 Subject to the Suppliers' compliance with their obligations under Clause 10.3, the Director shall be responsible for:
- 10.2.1 developing and updating the Operations Manual in collaboration with the Suppliers both:
    - (a) during the on boarding of a new Supplier; and
    - (b) on an ongoing basis for the duration of this Agreement with assistance and input from the Suppliers;
  - 10.2.2 maintaining the Operations Manual throughout the term of this Agreement;
  - 10.2.3 initiating a review of the Operations Manual at least annually and, if sooner, as soon as reasonably possible of either a new Supplier becoming a party to this Agreement or the Parties agreeing a material change (as determined by the Director) to any component part of the End to End Services; and
  - 10.2.4 approving any changes to the Operations Manual in accordance with the process within Clause 10.4 and Schedule 3 (*Operations Manual & Dependencies*).
- 10.3 Each Supplier shall be responsible to the Relevant Third Party Suppliers and the Director to comply with the following obligations in relation to the Operations Manual and the Dependencies on and from their respective Commencement Date:
- 10.3.1 to work together to identify any gaps in the Operations Manual and/or Dependencies within it on a continuous basis;
  - 10.3.2 to provide assistance to the Director to enable the Director to review and amend the Operations Manual to ensure it captures all relevant processes, procedures and Dependencies between the different aspects of the End to End Services and Suppliers;
  - 10.3.3 as soon as reasonably practicable and in any event within thirty (30) Working Days of receipt of an instruction from the Director to review the Operations Manual, to notify the Director in writing where it reasonably believes that the Operations Manual requires an amendment or further review, setting out details of the proposed amendments and the impact of the proposed amendments and the risks if the amendments are not made (including where Dependencies have not been documented or documented with sufficient detail);
  - 10.3.4 in relation to the on boarding of a new Supplier to comply with the process within Clause 10.5.

- 10.4 Changes to the Operations Manual will be agreed in advance between the Parties in accordance with Paragraph 3 of Schedule 3 (*Operations Manual & Dependencies*) to reflect changes that may occur, including without limitation, as a result of:
- 10.4.1 the addition of new Services and/or Suppliers;
  - 10.4.2 the decommissioning of existing Services and/or Suppliers;
  - 10.4.3 substantial changes to the manner in which existing Services are delivered; and/or
  - 10.4.4 any other changes to any of the End to End Services which may have an impact on the Operations Manual and the Dependencies between Suppliers.

For the avoidance of doubt, if the Parties cannot agree the changes to the Operations Manual then the Director shall have complete discretion to determine the final form of the Operations Manual taking into consideration the Suppliers recommendations as far as possible.

- 10.5 The Parties are bound to comply with the Dependencies and the Parties acknowledge that any changes to the Dependencies will be agreed in advance between the Parties in accordance with Paragraph 3 of Schedule 3 (*Operations Manual & Dependencies*) to reflect changes that may occur, including without limitation, as a result of:
- 10.5.1 the addition of new Services and/or Suppliers;
  - 10.5.2 the decommissioning of existing Services and/or Suppliers;
  - 10.5.3 substantial changes to the manner in which existing Services are delivered; and/or
  - 10.5.4 any other changes to any of the End to End Services which may have an impact on the Dependencies between Suppliers.

PROVIDED ALWAYS THAT where a new Supplier is introduced (through on boarding or as a replacement) then the following procedure shall be followed: the Director and the new Supplier having identified the Dependencies in draft form, the Director shall provide the Relevant Third Party Suppliers with a copy of the draft Dependencies for their review at least twenty (20) Working Days prior to the due date of the new Supplier commencing the provision of the Services. The Relevant Third Party Suppliers shall have ten (10) Working Days (or such other time as notified by the Director) to respond with any comments, concerns or amendments including to existing Dependencies in relation to the draft Dependencies in consideration of the delivery of the Services and/or End to End Services. If the Relevant Third Party Suppliers do not respond within the specified timeframe the Director may deem their silence consent to the draft Dependencies. Should a Relevant Third Party Supplier provide a response to the draft Dependencies, the Director shall consider the Relevant Third Party Supplier's response before confirming the finalised Dependencies. For the avoidance of doubt, if the Parties cannot agree the changes to the Dependencies then the Director shall have complete discretion to determine the Dependencies taking into consideration all of the Suppliers recommendations as far as possible. The Parties hereby acknowledge and agree that the Suppliers have been put on notice that at any time during the Term the Director may request the Supplier to share their solution for existing Services with the Director and/or a new Supplier and their representatives.

## **11 GOVERNANCE**

- 11.1 The Suppliers acknowledge that their respective relationships with the Director are governed by the governance and contract management provisions within their relevant Service Agreement and as set out in each Supplier's respective Service Agreement.

## **12 WARRANTIES**

- 12.1 Each Supplier hereby represents and warrants to each Relevant Third Party Supplier and the Director that:



- 12.1.1 all acts, conditions, authorisations, consents (including shareholder or parent company consents) and other things (including all licences and permits) required in order to enable it lawfully to enter into, exercise its rights under or perform its obligations under this Agreement and any other documents to be executed in connection with it or to authorise the same, have been duly done, fulfilled, obtained and performed and are in full force and effect;
- 12.1.2 it will, so far as it is reasonably able and within its power to do so, maintain all required communications connections, power and other services necessary to perform its obligations under this Agreement;
- 12.1.3 in respect of itself it is duly incorporated and validly existing under the laws of England and Wales and is fully qualified and empowered to own its assets and carry on its business;
- 12.1.4 it has the requisite power, right and authority to enter into and perform its obligations under this Agreement, and this Agreement when executed will constitute valid, lawful and binding obligations on it, enforceable in accordance with its terms;
- 12.1.5 neither the execution nor the delivery nor the performance of this Agreement will:
  - (a) result in a breach of, or constitute a default under, or require the consent of a person under, any agreement or arrangement by which it is bound;
  - (b) conflict with its constitutional documents or result in a breach of any provision of its memorandum or articles of association; or
  - (c) result in a breach of any law, regulation, order, judgement or decree of any court or government; and
- 12.1.6 it will undertake all of its obligations under this Agreement in accordance with Good Industry Practice and the co-operation obligations set out in Clauses 4, 5 and 6.
- 12.2 The express provisions of this Agreement are in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise (including implied undertakings of satisfactory quality, conformity with description and reasonable fitness for purpose), all of which are hereby excluded to the maximum extent permitted by law.
- 12.3 Each Supplier warrants to and undertakes with the Relevant Third Party Suppliers that:
  - 12.3.1 it shall promptly comply with all its obligations under its Service Agreement and this Agreement to the extent necessary to ensure that the Relevant Third Party Suppliers are not adversely impacted in their ability to perform their obligations under the respective Service Agreement and this Agreement and provided always that no Supplier is required to extend such co-operation to the extent that it is performing obligations of Relevant Third Party Supplier's under its respective Service Agreement;
  - 12.3.2 the performance of its obligations under its Service Agreement shall not cause or contribute to any breach by any Relevant Third Party Supplier of its obligations under or pursuant to, or otherwise give rise to any liability or loss to that Supplier in respect of its Service Agreement;
  - 12.3.3 save where set out in this Agreement, it will not waive or compromise any of its rights or claims under its Service Agreement without the consent of any Relevant Third Party Supplier (such consent not to be unreasonably withheld or delayed) who would otherwise be adversely impacted by the waiver or compromise;
  - 12.3.4 save where set out in this Agreement, it will not waive or compromise any of its rights or claims under this Agreement without the consent of any of the Director or any Relevant Third Party Supplier (such consent not to be unreasonably withheld or delayed) who would otherwise be adversely impacted by the waiver or compromise;

- 12.3.5 it shall comply with its relevant obligations in the Operations Manual as may be amended and/or updated from time to time; and
- 12.3.6 it shall observe and perform its obligations as set out in the Responsibility Matrix;

### **13 CHANGE CONTROL**

- 13.1 The provisions of the Change Control Procedure within the Service Agreements shall apply as if they were incorporated hereto '*mutatis mutandis*' in respect of all Changes except as otherwise expressly provided in this Agreement and/or as instructed by the Director.

### **14 IMPLEMENTATION**

- 14.1 The Service Agreements each contain an Outline Implementation Plan at Schedule 6.1 (*Implementation Plan*) identifying how the service will be implemented by each of the Suppliers. However, the Parties recognise that there are interdependencies between the Parties to ensure the Implementation is delivered to time and cost whilst ensuring business continuity both prior to and following the Operational Service Commencement Date.
- 14.2 Therefore, the Director will produce a Detailed Implementation Plan, based on the individual Implementation Plans set out in all the respective Supplier's Service Agreement in place on each Service Agreement's relevant Commencement Date as soon as reasonably possible following such Commencement Date and/or following any subsequent Service Agreement added to the definition hereunder following their relevant Commencement Date. Where the Detailed Implementation Plan materially differs from the Outline Implementation Plan:
  - 14.2.1 the Director (either directly or via the Nominated Lead if within its Delegated Authority) and the relevant Suppliers shall work together to identify the impact of such differences; and
  - 14.2.2 in the event the differences impact on the Supplier's costs, any such changes to the fees payable by the Director shall be processed using the Change Control Procedure within the relevant Service Agreement.
- 14.3 For the avoidance of doubt, nothing in this Clause 14 shall supersede or otherwise interfere with the mechanisms set out in the respective Service Agreements relating to Delay or Default.
- 14.4 In the event that one or more of the Suppliers are in breach of their obligations within their Service Agreement and/or under this Agreement unless the Supplier can evidence in accordance with the provisions of their respective Service Agreement that such Supplier Non-Performance would not have occurred but for a Director Cause or Force Majeure Event pursuant to the terms of their respective Service Agreements:
  - 14.4.1 where that breach is caused by the Default due to the act or omission of a single Supplier that Supplier shall be solely liable for the breach; or
  - 14.4.2 where that breach is caused or contributed to by the default or non-performance of more than one Supplier and it is not clear who the defaulting Suppliers are:
    - (a) then the defaulting Suppliers shall work together in good faith to determine the apportionment of the fault among themselves acting reasonably; and
    - (b) where the Suppliers cannot determine the apportionment of fault between them in accordance with Clause 14.4.2(a) then the Director shall, at its complete discretion and with the support of appropriate documentation provided by the Suppliers (as may be requested by the Director), determine the apportionment of the fault amongst the defaulting Suppliers. Where the Director cannot determine the apportionment for any reason (including due to a lack of documentation or information from the Suppliers) then the default position for apportioning of the fault shall be to split it equally across the defaulting Suppliers; or

- 14.4.3 where it is not clear who the defaulting Suppliers are in relation to any breach:
- (a) then all Suppliers shall work together in good faith to determine which Supplier is in Default and where more than Supplier is in Default the percentage apportionment of Default; and
  - (b) where the Suppliers cannot determine the Suppliers at fault and the apportionment of fault between them in accordance with Clause 14.4.3(a) then the Director shall, at its complete discretion and with the support of appropriate documentation provided by the Suppliers (as may be requested by the Director), determine the defaulting Suppliers and the apportionment of the fault amongst them. Where the Director cannot determine the apportionment for any reason (including due to a lack of documentation or information from the Suppliers) then the default position for apportioning of the fault shall be to split it equally across the defaulting Suppliers; and
- 14.4.4 the Director shall bring a claim under the terms of the Supplier's respective Service Agreement to calculate the relevant defaulting Supplier's liability.

## **15 PERFORMANCE REVIEW**

- 15.1 Each Contract Year the Director will assess the performance of:
- 15.1.1 each Supplier for compliance with obligations under this Agreement and in particular Clauses 5, 6, 7 and 8;
  - 15.1.2 each Supplier for a Collaboration Score in relation to the Supplier Index Questionnaire Threshold Requirement; and
  - 15.1.3 all Suppliers under a single Customer Satisfaction Score which shall be determined as an output of the annual Customer Satisfaction Report in relation to the Customer Satisfaction Report Threshold Requirement.
- 15.2 The Director shall in the first month of each Contract Year notify each Supplier in writing of each of the terms of the Supplier Index and the Customer Satisfaction survey for each Contract Year confirming the scoring scale and Threshold Requirements it considers appropriate and that will apply. In addition to revising the content, the Director reserves the right to vary the aforementioned process for setting out the terms of the Supplier Index and the Customer Satisfaction survey for each Contract Year at its discretion by way of written notice to the Suppliers.
- 15.3 Every Contract Year each Supplier (and the Director) shall complete and return to the Director the Supplier Index Questionnaire within ten (10) Working Days of it being issued. The Director or its agent shall assess the results and publish a summary version and each Supplier shall be awarded a Collaboration Score in relation to its Threshold Requirement.
- 15.4 The Director or its agent, will operate a Customer Satisfaction survey process on a daily, monthly and annual basis. A single Customer Satisfaction Score shall be derived from the annual Customer Satisfaction Report in relation to the Suppliers' Customer Satisfaction Report Threshold Requirement.
- 15.5 Where there is negative feedback on the Customer Satisfaction surveys, at the Director's complete discretion:
- 15.5.1 the Suppliers shall meet with the Director within ten (10) Working Days (or as the Director may otherwise decide) to discuss with the Director how they intend to rectify and improve their performance in relation to the issues arising from the Collaboration Score; and
  - 15.5.2 the Director may;
    - (a) initiate a Rectification Plan and/or Change under the Supplier's respective Service Agreement, as the Director deems most appropriate; and/or

- (b) appoint a Remedial Adviser under the respective Service Agreement(s).

## **16 COLLABORATION REWARD POT**

- 16.1 The Director will each Contract Year establish an annual Reward Pot payable to Suppliers pursuant to this Agreement and the outcomes from Clause 15 (with the exception of the monthly Customer Satisfaction surveys captured by the Director) in accordance with this Clause 16.
- 16.2 As soon as reasonably practicable following the commencement of a Contract Year, the Director shall notify each Supplier of:
- 16.2.1 the quantum of the Reward Pot that is available to each Supplier subject to meeting the Threshold Requirements in accordance with Clause 15 for the relevant Contract Year; and
  - 16.2.2 the allocated proportion of the Reward Pot attributable to each aspect of the matters set out in Clause 15.1.
- 16.3 The Suppliers acknowledge that:
- 16.3.1 the Reward Pot allocations will differ between Suppliers and may differ between Contract Years;
  - 16.3.2 the Director may, at its sole discretion, reduce the amount of each or all of the relevant Suppliers Reward Pot where it has paid out compensation to customers during the cause of the year.

### **First requirement**

- 16.4 In order to qualify for a payment from the Reward Pot in any Contract Year a Supplier must in the first instance have satisfied performance levels under its respective Service Agreement for the Contract Year in question. Those required standards will be set at the outset of each Contract Year by the Director notifying the Supplier at the same time as the notice issued pursuant to Clause 16.2.
- 16.5 As soon as reasonably practicable following the expiry of a Contract Year the Director shall notify each Supplier as to whether they have satisfied the performance requirements set pursuant to Clause 16.4 for the Contract Year in question. If not, then the Supplier will not be eligible for its share of the Reward Pot regardless of its performance measured pursuant to Clause 15.1 including the Threshold Requirements.

### **Second requirement**

- 16.6 If the Supplier has satisfied and met the service standards for the Contract Year then the remaining provisions of this Clause 16 shall apply.
- 16.7 In relation to Clause 15.1.2, if the Supplier Index Collaboration Score awarded pursuant to Clause 15.3 is deemed:
- 16.7.1 satisfactory or higher the Supplier may, at the Director's complete discretion, be entitled to the relevant portion of the Reward Pot allocated to that Supplier Index ; or
  - 16.7.2 unsatisfactory then the Supplier shall have failed to achieve the Collaboration Score relevant to the Supplier Index, the Supplier shall not be entitled to the relevant proportion of the Reward Pot allocated to the underachieved Supplier Index.
- 16.8 In relation to Clause 15.1.3, if the Customer Satisfaction Score awarded pursuant to Clause 15.4 is deemed:

- 16.8.1 satisfactory or higher the Supplier may, at the Director's complete discretion, the Suppliers may be entitled to the relevant portion of the Reward Pot allocated to the Customer Satisfaction Report; or
  - 16.8.2 unsatisfactory then all the Suppliers shall have failed to achieve the Customer Satisfaction Score relevant to the Customer Satisfaction Report. No Supplier shall be entitled to the relevant proportion of the Reward Pot allocated to the underachieved Customer Satisfaction Report.
- 16.9 If the Director awards an element of the Reward Pot to any Supplier that Supplier confirms its commitment to share fifty percent (50%) of such sums directly with the workforce employed by the Supplier to work under its Service Agreement and this Agreement. Any failure to do so, shall disqualify the Supplier from being able to apply for any allocation of the Reward Pot in the following Contract Year.

## **17 PAYMENT AND INTEREST**

- 17.1 Each Supplier acknowledges that any recoverable costs, expenses or other charges shall be payable solely through their respective Service Agreement. Except as otherwise provided for under this Agreement, the Suppliers shall not be entitled to recover any additional costs or expenses under this Agreement.

## **18 SUPPLIERS' LIABILITY**

- 18.1 This Clause 18 shall only apply to liabilities between the respective Suppliers. The clause shall not apply so as to limit or exclude any liability between the respective Suppliers and the Director in which respect the provisions of their respective Service Agreements shall apply.
- 18.2 None of the Suppliers shall exclude or limit its liability for:
- 18.2.1 death or personal injury caused by its negligence or that of its employees or agents;
  - 18.2.2 fraud; or
  - 18.2.3 breach of any obligation as to title implied by statute.
- 18.3 Subject always to Clauses 18.1 and 18.2:
- 18.3.1 no Supplier shall be liable to a Relevant Third Party Supplier for any and all claims whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise arising out of or in connection with this Agreement, except in relation to Clauses 22, 23 and 24 to the extent caused by its own default in which case the defaulting Supplier's liability shall be unlimited (in respect of any claim or series of claims) in relation to this Agreement; and
  - 18.3.2 in respect of any liabilities between the Director and one or more of the Suppliers the terms of the Service Agreement shall apply for all claims whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise arising out of or in connection with this Agreement, such liabilities shall be subject to the respective limits set out in the Service Agreement.
- 18.4 Subject always to Clause 18.2, in no event shall any Supplier be liable to any Relevant Third Party Supplier for:
- 18.4.1 any indirect, special or consequential loss or damage; and/or
  - 18.4.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).

## **19 TERMINATION**

19.1 Subject to Clause 20.2, this Agreement shall terminate on the sooner of either:

19.1.1 termination or expiry of all Service Agreements; or

19.1.2 the written consent of all Parties.

19.2 In the event of any Service Agreement being terminated or expiring in accordance with its terms, this Agreement shall terminate in so far as the terminated Supplier is concerned (but shall continue as between the Director and the Relevant Third Party Suppliers) but without prejudice to the accrued rights and liabilities (if any) of the Parties under this Agreement at the date of termination.

## **20 CONSEQUENCES OF TERMINATION**

20.1 On termination of this Agreement or the termination as it applies to a Supplier, each Supplier shall ensure that:

20.1.1 all documentation; and

20.1.2 all information (including all copies of such information stored in any written or electronic form);

which constitutes the Confidential Information of a Relevant Third Party Supplier shall be returned to the relevant Party forthwith (except where the disclosing Party of such information agrees that the information may be securely disposed of) or, if not the former, which is provided by the Director and/or Relevant Third Party Suppliers in relation to this Agreement, the Services and/or End to End Services shall be destroyed immediately.

20.2 The termination of this Agreement for any reason whatsoever whether in whole or as it applies to a Supplier, or its expiry:

20.2.1 shall not prevent the following clauses to continue in force: Clauses 18 (*Suppliers' Liability*), 19 (*Termination*), 20 (*Consequences of Termination*), 21 (*No Claim Against the Director*), 22 (*Confidentiality*) 23 (*Data Protection*) 24 (*Intellectual Property Rights*), 25 (*Miscellaneous*), 27 (*Dispute Resolution Procedure*), 28 (*Entire Agreement*), 29 (*Third Party Rights*), and 32 (*Governing Law and Jurisdiction*);

20.2.2 shall not affect any provision of this Agreement which by its very nature should survive or operate in the event of the termination of this Agreement; and

20.2.3 shall not prejudice or affect the rights of any Party against another in respect of any breach of this Agreement or in respect of any monies payable by one Party to another in respect of any period prior to termination or expiry. This Clause 20 shall not affect any rights contained in this Agreement which expressly allow a Party to withhold payment in specified circumstances.

## **21 NO CLAIM AGAINST THE DIRECTOR**

21.1 Each Supplier agrees that it shall not pursue any claim for any loss (including loss of revenue), cost, expense or other liabilities against the Director and shall only be entitled to pursue claims as provided for in the relevant Service Agreement and consequently each Supplier hereby releases the Director from all and any rights which the Supplier may have to claim any such losses under this Agreement.

21.2 Except as expressly permitted under this Agreement, each Supplier agrees that it shall not pursue any claim for any loss (including loss of revenue), cost, expense or other liabilities against any Relevant Third Party Supplier and shall only be entitled to pursue claims against the Director as provided for in the relevant Service Agreement and consequently each Supplier hereby releases the Relevant Third

Party Suppliers from all and any rights which the Supplier may have to claim any such losses under this Agreement unless this Agreement otherwise permits.

## **22 CONFIDENTIALITY**

- 22.1 For the purposes of this Clause 22, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- 22.2 Except to the extent set out in this Clause 22 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:
- 22.2.1 treat the Disclosing Party’s Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
  - 22.2.2 not disclose the Disclosing Party’s Confidential Information to any other person except as expressly set out in this Agreement or without obtaining the owner’s prior written consent;
  - 22.2.3 not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Agreement; and
  - 22.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.
- 22.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- 22.3.1 the Recipient is required to disclose the Confidential Information by Law, provided that Clause 24 (*Transparency and Freedom of Information*) of their respective Service Agreement shall apply to disclosures required under the FOIA or the EIRs;
  - 22.3.2 the need for such disclosure arises out of or in connection with:
    - (a) any legal challenge or potential legal challenge against the Director and/or Relevant Third Party Supplier arising out of or in connection with this Agreement;
    - (b) the examination and certification of the Director’s accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Director is making use of any Services provided under this Agreement; or
    - (c) the conduct of a Central Government Body review in respect of this Agreement; or
  - 22.3.3 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
- 22.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 22.5 A Supplier may disclose the Confidential Information of the Director and/or Relevant Third Party Supplier on a confidential basis only to:
- 22.5.1 its Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier’s obligations under this Agreement;

22.5.2 its auditors; and

22.5.3 its professional advisers for the purposes of obtaining advice in relation to this Agreement.

Where a Supplier discloses Confidential Information of the Director and/or Relevant Third Party Supplier pursuant to this Clause 22.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.

22.6 The Director may disclose the Confidential Information of a Supplier:

22.6.1 on a confidential basis to any Central Government Body for any proper purpose of the Director or of the relevant Central Government Body;

22.6.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

22.6.3 to the extent that the Director (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

22.6.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 22.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Agreement;

22.6.5 on a confidential basis for the purpose of the exercise of its rights under this Agreement, including the Audit Rights, its rights to appoint a Remedial Adviser pursuant to Clause 30 (*Remedial Adviser*) and Exit Management rights under their respective Service Agreement; or

22.6.6 on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Director under this Clause 22.

22.7 Nothing in this Clause 22 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

22.8 The undertakings and other provisions of this Clause 22 shall continue in force without limit in time and shall survive termination of this Agreement, but shall cease to apply to information which may enter the public domain otherwise than through the unauthorised disclosure by or fault of the recipient of the Confidential Information or by a person with whom such recipient is connected in any way.

22.9 Each Supplier acknowledges that damages alone may not be an adequate remedy in the event of breach of the provisions of this Clause. Accordingly, it is agreed that any Party shall be entitled, without proof of special damages, to seek an injunction or other interim remedy for any threatened or actual breach of this clause, without prejudice to any other rights and remedies which that Party may have.

## 23 DATA PROTECTION

23.1 Each Supplier's attention is drawn to the Data Protection Act 2018, the UK GDPR (meaning Regulation 2016/679 of the European Parliament and of the Council of 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018), and 00/31/EC of the European Parliament and any legislation and/or regulations implementing them (all referred to together as the "**Data Protection Requirements**").



- 23.2 Each Supplier warrants that they will duly observe all their obligations under the Data Protection Requirements that arise in connection with this Agreement.
- 23.3 In particular, a Supplier (the **Data Processor**) shall, in relation to the processing of a Relevant Third Party Supplier's (the **Data Controller**) personal data:
- 23.3.1 only carry out processing on the Data Controller's instructions;
  - 23.3.2 implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access; and
  - 23.3.3 take reasonable steps to ensure the reliability of staff that have access to personal data.
- 23.4 The Suppliers shall not transfer any personal data received from any other Party outside of the UK without the prior written consent of the other Party that is the Data Controller.
- 23.5 The Suppliers acknowledge that they will need to co-operate with each other to ensure that personal data is processed in accordance with the Data Protection Requirements and where necessary, if required by the Director, the Suppliers may be required to:
- 23.5.1 agree variations to this Agreement; and
  - 23.5.2 enter into additional agreements with one another
- if so required by the Director to ensure that the Data Protection Requirements are met.

## 24 INTELLECTUAL PROPERTY RIGHTS

- 24.1 Except as expressly agreed otherwise in writing or as otherwise set out in the respective Service Agreement, all Existing IPR shall remain vested in that Party.
- 24.2 To the extent that a Supplier (the **Supplier Licensee**) requires the use of any Relevant Third Party Supplier's (the **Supplier Licensor**) Existing IPR in connection with this Agreement and/or the relevant Service Agreement, the Supplier Licensor shall, subject to Clause 24.3, grant to the Supplier Licensee (or shall procure that the licensor of the Existing IPR shall grant) a non-exclusive, non-transferable, royalty free licence to use the Existing IPR only to the extent necessary to enable the Supplier Licensee to perform its obligations under this Agreement and/or under the relevant Service Agreement.
- 24.3 The licence granted under Clause 24.2:
- 24.3.1 shall continue for so long as the relevant Supplier requires such rights of use in order to perform its obligations under this Agreement and/or under the relevant Service Agreement; and
  - 24.3.2 shall be subject to the Supplier Licensee paying a licence fee calculated by reference to the licence fee payable by the Director under the Supplier Licensor's Service Agreement, or otherwise at an agreed rate not to exceed the licence fee available commercially to licensees of the Supplier Licensor for that Software.
- 24.4 For the avoidance of doubt all Parties to this Agreement shall not infringe any Intellectual Property Rights of any third party in supplying the Services during and after the Term, shall indemnify and keep indemnified and hold the Director and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Director or the Crown may suffer or incur as a result of or in connection with any breach of this clause.

## 25 MISCELLANEOUS

- 25.1 The following Clauses of the Supplier's respective Service Agreement shall apply '*mutatis mutandis*' to this Agreement except as otherwise expressly provided in this Agreement and/or as instructed by the Director: 26 (*Publicity and Branding*), 36 (*Compliance*), 37 (*Assignment & Novation*), 38 (*Waiver and Cumulative Remedies*), 39 (*Relationship of the Parties*), 40 (*Prevention of Fraud and Bribery*), 42 (*Severance*), 43 (*Further Assurances*), with the exclusion of Clause 46.3, 46 (*Notices*) and 47 (*Disputes*).

## **26 ACCESSION**

- 26.1 From the date hereof, the Director shall be able to engage a new Supplier to join as a Party to this Agreement and:
- 26.1.1 the Director shall procure that such new Supplier executes a Deed of Accession, in the form set out in Schedule 4, Part 1, or such other similar agreement as is agreed by all of the Parties to this Agreement (acting reasonably); and
  - 26.1.2 the Parties as of the date of the new Supplier's execution of the Deed of Accession shall execute the same Deed of Accession in the form set out in Schedule 4, Part 1.
- 26.2 Following termination of any Service Agreement prior to expiry or termination of all other Service Agreements, the Director shall where required promptly engage a replacement for the terminated Supplier and:
- 26.2.1 the Director shall procure that such replacement Supplier executes a Deed of Accession, in the form set out in Schedule 4Part 2, or such other similar agreement as is agreed by all of the Parties to this Agreement (acting reasonably) and the replacement Supplier; and
  - 26.2.2 the Parties (but other than the Supplier being replaced) shall execute the same Deed of Accession in the form set out in Schedule 4Part 2.

## **27 DISPUTE RESOLUTION PROCEDURE**

- 27.1 Any Dispute between the Director and another Party or other Parties to this Agreement, is governed by the respective Service Agreement. If the Director requests that a Supplier joins a Dispute Resolution Procedure that has commenced with another Relevant Third Party Supplier pursuant to a Service Agreement via the Multi Party Dispute Resolution Procedure in that Service Agreement, the Supplier shall comply with that request and be bound to follow that Multi-Party Dispute Resolution Procedure.
- 27.2 Any Dispute between the Suppliers where the Director is not a party to that Dispute, is governed by Schedule 2 (Dispute Resolution Procedure) and should a Supplier serve or receive a Dispute Notice under Schedule 2 (Dispute Resolution Procedure), they shall notify the Director of the same and provide reasonable information to the Director of the nature and progress of the Dispute.

## **28 ENTIRE AGREEMENT**

- 28.1 This Agreement and the Service Agreements constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 28.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.
- 28.3 Nothing in this Clause 28 shall exclude any liability in respect of misrepresentations made fraudulently.

## **29 THIRD PARTY RIGHTS**

A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

### 30 AMENDMENTS

This Agreement may not be varied or amended except in writing and signed by duly authorised representatives of all the Parties.

### 31 NOTICES

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

	Supplier	Director
Contact:		
Address:		
E-mail:		

### 32 GOVERNING LAW AND JURISDICTION

- 32.1 This Agreement and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
- 32.2 Subject to Clause 47 (*Disputes*) of the Supplier's respective Service Agreement and Schedule 2 to this Agreement (Dispute Resolution Procedure (including the Director's right to refer the dispute to arbitration)), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

**THIS DOCUMENT** is executed as a deed and delivered on the date stated at the beginning of this Agreement

**EXECUTED AS A DEED** by )  
**THE DIRECTOR OF SAVINGS** acting by its duly)   
authorised signatory )  
 )  
in the presence of: )  
 )  
 )

Witness Signature:

Full Name:

Address:

Occupation:

**EXECUTED AS A DEED** by )  
[Provider of Customer Contact and Operations] )  
acting by its duly authorised )  
attorney )  
 )  
in the presence of: )  
 )  
 )

Witness Signature:

Full Name:

Address:

Occupation:

## SCHEDULE 1 – DEFINITIONS

- 1 Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below.

**Achieve** means:

- (a) in respect of a Test, to successfully pass a Test without any Test Issues; and
- (b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Schedule 6.2 (*Testing Procedures*) of the Supplier's respective Service Agreement,

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

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

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

**Agreement** means this agreement as may be accessioned and, as applicable, assigned in accordance with its terms.

**Associated Person** has the meaning given to it in Section 44(4) of the Criminal Finances Act 2017.

**Associates** means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between twenty percent (20%) and fifty percent (50%) of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles.

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

- (a) Government Department;
- (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- (c) Non-Ministerial Department; or
- (d) Executive Agency.

**Change** means any change to this Agreement or to any Service Agreement, as the context requires.

**Change Control Procedure** means the procedure for changing this Agreement or any Service Agreement as applicable, as more accurately described in Schedule 8.2 (*Change Control Procedure*) of each Supplier's respective Service Agreement.

**Change Proposal** has the meaning given in Schedule 8.2 (*Change Control Procedure*) of each Supplier's respective Service Agreement.

**Commencement Date** this Agreement shall take effect and be binding upon each Supplier and the Director in relation to their respective obligations on and from the date that their respective Service Agreements come into legal effect. For the avoidance of doubt, a Supplier shall not owe a duty to a Relevant Third Party Supplier under this Agreement unless and until both Suppliers have binding Service Agreements.

**Committee** has the meaning given in Schedule 8.1 (*Governance*) of each Supplier's respective Service Agreement.

**Confidential Information** means:

- (a) Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Agreement that relates to:
  - (i) the Disclosing Party Group; or
  - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, Know-How and/or personnel of the Disclosing Party Group;
- (b) other Information provided by the Disclosing Party pursuant to or in anticipation of this Agreement that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with this Agreement;
- (c) discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with this Agreement and all matters arising therefrom; and
- (d) Information derived from any of the above,

but not including any Information which:

- (i) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;
- (ii) the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient;
- (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality;
- (iv) was independently developed without access to the Confidential Information; or
- (v) relates to the Supplier's:
  - (i) performance under this Agreement; or
  - (ii) failure to pay any Sub-contractor as required pursuant to Clause 15.15.4 (*Supply Chain Protection*) of their respective Service Agreement.

**Continuous Improvement Plan** means the plan produced and maintained by the Director in conjunction with the Supplier and Relevant Third Party Suppliers, as described in Schedule 8.8 (*Continuous Improvement*) of each Supplier's respective Service Agreement.

**Contract Year** means:

- (a) a period of twelve (12) months commencing on the Effective Date; or
- (b) thereafter a period of twelve (12) months commencing on each anniversary of the Effective Date;

provided that the final Contract Year shall end on the expiry or termination of the Term.

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

**Collaboration Manager** shall be as defined under Clause 4.2.

**Collaboration Score** means the score attributed to the Supplier's performance under the Supplier Index Questionnaire in accordance with the Supplier Index and whether it is unsatisfactory; satisfactory or excellent.

**Customer Satisfaction** means that the Director's Customers and/or Users have been adequately served through the provision of the Services as evidenced by the achievement of the Threshold Requirement score in a Customer Satisfaction Report.

**Customer Satisfaction Report** means the report issued by the Director pursuant to Clause 15.4 about the end to end performance and delivery against stated objectives of the Director and taking into account the feedback from Customers or other applicable users of the End to End Service.

**Customer Satisfaction Score** means the score attributed to customer satisfaction and derived from the annual Customer Satisfaction Report in accordance with the Customer Satisfaction survey and whether it is unsatisfactory; satisfactory or excellent.

**Data Protection Requirements** has the meaning given in Clause 23.1.

**Deed of Accession** means the deed of accession in a form as set out at Schedule 4.

**Default** means any breach of the obligations of the relevant Party (including failure to meet obligations under their Service Agreement or abandonment of this Agreement in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement:

- (a) in the case of the Director, of its employees, servants, agents; or
- (b) in the case of a Supplier, of its Sub-contractors or any of its Supplier Personnel,

in connection with or in relation to the subject-matter of this Agreement (including each of the Supplier's respective Service Agreement).

**Definition Phase** has the meaning given in Schedule 8.2 (*Change Control Procedure*) of each Supplier's respective Service Agreement.

**Delay** means:

- (a) a delay in the Achievement of a Milestone by its Milestone Date; or
- (b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan.

**Delegated Authority** means the authority granted to the Nominated Lead by the Director as may be amended from time to time as notified by the Director to the other Parties hereunder.

**Deliverable** means an item or feature delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of their respective Service Agreement.

**Dependencies** means any dependency and/or interface of the respective Services between the Parties, as identified and notified to the Parties, and as may be updated from time to time, which each Supplier must comply with to enable the Relevant Third Party Suppliers to comply with their respective obligations under the relevant Service Agreements, this Agreement and to deliver the Director's End to End Service requirements (and which for information purposes will be included in the Operations Manual).

**Dependent Parent Undertaking** means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the relevant Supplier would be unable to

continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Agreement and/or their respective Service Agreement, including for the avoidance of doubt the provision of the Services in accordance with the terms of their respective Service Agreement.

**Detailed Implementation Plan** means the plan developed and revised from time to time in accordance with Paragraphs 3 and 4 of Schedule 6.1 (*Implementation Plan*) of each Supplier's respective Service Agreement.

**Director Cause** means any material breach by the Director of any of the Director Responsibilities, except to the extent that such breach is:

- (a) the result of any act or omission by the Director to which the respective Supplier has given its prior consent; or
- (b) caused by the Supplier, any Sub-contractor or any Supplier Personnel.

**Director Responsibilities** has the meaning given in Schedule 1 (*Definitions*) of each Supplier's respective Service Agreement.

**Director Software** means software which is owned by or licensed to the Director (other than under or pursuant to this Agreement and/or any of the Service Agreements) and which is or will be used by one or more of the Suppliers for the purposes of providing the Services.

**Disclosing Party** has the meaning given in Clause 22.1.

**Disclosing Party Group** means:

- (a) where the Disclosing Party is the Supplier, the Supplier and any Affiliates of the Supplier; and
- (b) where the Disclosing Party is the Director, the Director and any Central Government Body with which the Director or the Supplier interacts in connection with this Agreement.

**Dispute** any dispute, difference or question of interpretation arising out of or in connection with this Agreement, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure.

**Dispute Notice** has the meaning given to it in Paragraph 2.1 of Schedule 2.

**Dispute Resolution Procedure** the dispute resolution procedure set out in Schedule 2.

**End to End Service** means the Services delivering an end to end solution to the Director by the Supplier and the Relevant Third Party Supplier and achieving Customer Satisfaction.

**Events** shall have the meaning given in Clause 7.5.

**Force Majeure Event** means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event.

**Forum** has the meaning given in Schedule 8.1 (*Governance*) of each Supplier's respective Service Agreement.

**Good Industry Practice** means at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services or part of them (as appropriate to the context in which this expression is used) similar to or the same as the Services to a customer like the Director, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws.



**Impact Assessment** has the meaning given in Schedule 8.2 (*Change Control Procedure*) of each Supplier's respective Service Agreement.

**Information** means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form).

**Implementation Plan** means the Outline Implementation Plan or (if and when approved by the Director pursuant to Paragraph 3 of Schedule 6.1 (*Implementation Plan*) of each Supplier's respective Service Agreement) the Detailed Implementation Plan as updated in accordance with Paragraph 4 of Schedule 6.1 (*Implementation Plan*) of each Supplier's respective Service Agreement from time to time.

**Intervention Cause** has the meaning given in Clause 30.1 (*Remedial Adviser*) of each Supplier's respective Service Agreement.

**Intellectual Property Rights or IPRs** means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction.

**Know-How** means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know-how already in the other Party's possession before this Agreement.

**Law** means any 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, guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier or the Director is bound to comply or with which the Director has decided voluntarily to comply.

**Milestone** means an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date.

**Milestone Achievement Certificate** means the certificate to be granted by the Director when the relevant Supplier has Achieved a Milestone, which shall be in substantially the same form as that set out in Annex 3 of Schedule 6.2 (*Testing Procedures*) of their respective Service Agreement.

**Milestone Date** means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved.

**Multi Party Dispute Resolution Procedure** has the meaning given in Schedule 1 (*Definitions*) of each Supplier's respective Service Agreement.

**Nominated Lead** shall mean the Director or such other Party as the Director may from time to time nominate in accordance with Clause 9.

**Notifiable Default** shall have the meaning given in Clause 29.1 (*Rectification Plan Process*) of each Supplier's respective Service Agreement.

**Operational Service Commencement Date** in relation to an Operational Service, the later of:

- (a) the date identified in the Operational Services Implementation Plan upon which the Operational Service is to commence; and
- (b) where the Implementation Plan states that each Supplier must have Achieved the relevant ATP Milestone (as defined in their respective Service Agreement) before it can commence the provision of that Operational Service, the date upon which the Supplier Achieves the relevant ATP Milestone.

**Operational Services** means the operational services described as such in the Services Description.

**Operations Manual** means the manual produced and maintained in accordance with the provisions of Clause 10 (*Operations Manual & Dependencies*) incorporating the Responsibility Matrix and Dependencies.

**Outline Implementation Plan** means the outline plan set out at Annex 1 of Schedule 6.1 (*Implementation Plan*) of each Supplier's respective Service Agreement.

**Parent Undertaking** has the meaning set out in section 1162 of the Companies Act 2006.

**Partnership Development Working Group** is one of the Working Groups that will be created from the first Supplier's Effective Date, in each case as more accurately described in Schedule 8.1 (*Governance*) of each Supplier's respective Service Agreement.

**Party** means each party to this Agreement.

**Personal Data** has the meaning given in the UK GDPR.

**[Digital Integration and Service Operations] Services** means the service to provide [x] services under the [Digital Integration and Service Operations] Service Agreement.

**[[Digital Experience and Digital Enablement] Services** means the service to provide [x] services under the [Digital Experience and Digital Enablement] Service Agreement.]

**[[Customer Contact and Operations] Services** means the service to provide [x] services under the [Customer Contact and Operations] Service Agreement.]

**[[Core Banking, Payment and Reporting] Services** means the service to provide [x] services under the [Core Banking, Payment and Reporting] Service Agreement.]

**Recipient** has the meaning given in Clause 22.1.

**Rectification Plan** means a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default.

**Related Services** means has the meaning given in Schedule 1 (*Definitions*) of each Supplier's respective Service Agreement.

**Relevant Third Party Supplier** shall means a third party supplier which is party to another Service Agreement with the Director, and which is subject to this Agreement.

**Remedial Adviser** means the person appointed pursuant to Clause 30.2 (*Remedial Adviser*) of the Supplier's respective Service Agreement.

**Responsibility Matrix** means the matrix of responsibility between the Parties in relation to the Dependencies and as may be amended from time to time (and which for information purposes will be included in the Operations Manual).

**Reward Pot** means the sum allocated by the Director for each Contract Year that a Supplier may be entitled to be paid provided it satisfies the requirements within Clause 16.

**Schedules** unless otherwise provided references to Schedules are references to the schedules of this Agreement and references in any Schedule to paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear.

**Service Agreement** means the service agreements entered into between the Director; and any and all of the Suppliers of the four interfacing technology service packages, and **Service Agreements** shall mean one or more of the above as the context requires.

**Service Recipients** has the meaning given in Schedule 1 (*Definitions*) of each Supplier's respective Service Agreement.

**Services** the Digital Experience and Digital Enablement Services and/or the Relevant Third Party Supplier's services (including those provided by the current provider) as the context requires.

**Services Description** means the services description set out in Schedule 2.1 (*Services Description*) of each Supplier's respective Service Agreement.

**SIAM** means the service integration and management role in relation to the End to End Services.

**Sub-contractor** means any third party with whom:

- (a) the Supplier enters into a Sub-contract; or
- (b) a third party under (a) above enters into a Sub-contract,

or the servants or agents of that third party;

**Subsidiary Undertakings** has the meaning set out in section 1162 of the Companies Act 2006.

**Supplier** means:

- (a) [Provider of Digital Integration and Service Ops];
- (b) the procured supplier for Digital Experience and Digital Enablement;
- (c) the procured supplier for Customer Contact and Operations; and
- (d) the procured supplier for Core Banking, Payment and Reporting;

and **Suppliers** shall mean one or more of the above as the context requires.

**Supplier Index** means the index attributed by the Director annually to each Supplier under Clause 15.2 for attributing a Collaboration Score to the Supplier's performance under Clause 15.1.2.

**Supplier Index Questionnaire** means the questionnaire issued by the Director pursuant to Clause 15.3 seeking feedback from the Suppliers and the Director about the collaborative performance of the Relevant Third Party Suppliers and the Director.

**Supplier Group** means each Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings.

**Supplier Non-Performance** has the meaning given in Clause 32.1 (*Director Cause*) of each Supplier's respective Service Agreement.

**Supplier Personnel** means all directors, officers, employees, agents, consultants and contractors of a respective Supplier and/or of any Sub-contractor engaged in the performance of the relevant Supplier's obligations under this Agreement and/or their respective Service Agreement.

**Test Issues** has the meaning given in Schedule 6.2 (*Testing Procedures*) of each Supplier's respective Service Agreement.

**Tests** and **Testing** means any tests required to be carried out under the Supplier's respective Service Agreement, as further described in Schedule 6.2 (*Testing Procedures*) of their respective Service Agreement and "**Tested**" shall be construed accordingly.

**Threshold Requirements** means those requirements related to collaboration activities that each Supplier will be adjudged against pursuant to Clause 15.

**UK GDPR** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018.

**Working Day** any day other than a Saturday, Sunday or public holiday in England and Wales.

**Working Group** has the meaning given in Schedule 8.1 (*Governance*) of each Supplier's respective Service Agreement.

## SCHEDULE 2 - DISPUTE RESOLUTION PROCEDURE

### 1 DEFINITIONS

- 1.1 In this Schedule, the following definitions shall apply:

**Expert** in relation to a Dispute, a person appointed in accordance with Paragraph 5 to act as an expert in relation to that Dispute.

**Expert Determination** means determination by an Expert in accordance with Paragraph 5.

**Related Third Party** means a party to another contract with a Supplier which is relevant to this Agreement;

**SPDs** means Suppliers that are party to a Dispute because they served the Dispute Notice relevant to that Dispute, or received a Dispute Notice relevant to that Dispute.

### 2 DISPUTE NOTICES

- 2.1 If a Dispute arises between any of the Suppliers, a Supplier may serve on any of the other Relevant Third Party Suppliers a notice clearly titled "dispute notice", including a clear summary of the Dispute and confirming who the notice is going to be served on ("**Dispute Notice**") together with any relevant supporting documents of which it reasonably believes the other SPDs do not hold a copy. The Supplier serving the Dispute Notice, will also provide a copy of the Dispute Notice to the Director within five (5) Working Days.
- 2.2 For the avoidance of doubt, a Supplier may serve a Dispute Notice on multiple Suppliers.
- 2.3 A Supplier may include in a Dispute Notice one or more Disputes.
- 2.4 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a or proceedings under Paragraph 6 (*Urgent Relief*).
- 2.5 The SPDs will provide such information as the Director may reasonably request in relation to the Dispute.
- 2.6 If a Supplier becomes aware that another Supplier has served a Dispute Notice on one or more of the other Suppliers, and wishes to be party to the Dispute Resolution Procedure, they may request to become a party within five (5) Working Days of service of the Dispute Notice. The SPDs have five (5) Working Days to inform the other Supplier of their decision. If the SPDs unanimously agree to include the other Supplier, from then on, the other Supplier will be treated as one of the SPDs.

### 3 NEGOTIATION

- 3.1 Following service of a Dispute Notice, the SPDs shall attempt in good faith to resolve the Dispute.
- 3.2 If the SPDs have not resolved the Dispute within twenty (20) Working Days of the date on which the Dispute Notice is served, they may within five (5) Working Days following the end of the twenty (20) Working Day negotiation period:
- 3.2.1 agree an extension of time to continue the negotiations; or
- 3.2.2 agree that the Dispute(s) set out in the Dispute Notice should be referred to expert determination under Paragraph 5 of this Schedule.
- 3.3 If the SPDs fail to agree one of the options in Paragraph 3.2, the Dispute set out in the Dispute Notice will be automatically referred to adjudication under Paragraph 4 of this Schedule.

- 3.4 Where an extension of time is agreed under Paragraph 3.2.1, the SPDs will continue their attempts in good faith to resolve the Dispute for the duration of that agreed extension period. When that agreed extension period ends and where the Dispute remains unresolved, Paragraphs 3.2 and 3.3 will apply again (except that references to the “twenty (20) Working Days” period shall be read and interpreted to include the agreed extension period).

#### **4 ADJUDICATION**

- 4.1 The Supplier who served the Dispute Notice may refer the Dispute to adjudication in accordance with the version of the Society for Computers & Law Adjudication Rules in force at the time of referral (“SCLA Rules”).
- 4.2 Subject to Paragraph 6 (*Urgent Relief*) of this Schedule, no litigation relating to that Dispute may be commenced prior to the publication of the Adjudicator’s Decision.
- 4.3 If any of the SPDs wish to commence litigation after the Decision has been published, they must do so within six (6) calendar months of the Effective Date of the Decision, otherwise the claim will be time-barred.
- 4.4 If the Society for Computers & Law adjudication scheme is revoked, the SPDs are still governed by and shall comply with this Paragraph 4 and (to the extent possible in light of the revocation of the scheme) the SCLA Rules, but paragraph 7 to paragraph 9 of the SCLA Rules Version 2.1 (or equivalent paragraphs of a later version) will be replaced with “*The Parties shall within 21 days of the Dispute notice agree on and appoint an adjudicator*”. In the absence of agreement between the SPDs, any of the SPDs may request that the Society for Computers and Law (or, if unavailable or unwilling, an equivalent organisation) to nominate an Adjudicator, and such nomination will be binding on the SPDs.
- 4.5 Capitalised terms in this Paragraph 4 which are undefined in the Agreement are defined in the SCLA Rules.

#### **5 EXPERT DETERMINATION**

- 5.1 The SPDs acknowledge that some Disputes (due to their complexity of the volume of information or evidence that may be required to help resolve the issues) may not be suitable for adjudication under Paragraph 4.
- 5.2 Subject to the SPDs’ agreement under Paragraph 3.2.2, the SPD who served the Dispute Notice may refer the Dispute to Expert Determination by serving a notice on the other Supplier / Suppliers who are the SPDs, stating that the Dispute is referred to Expert Determination, proposing three conflict-free and available experts, and enclosing a draft expert determination agreement.
- 5.3 Within twenty-eight (28) days of the referral to Expert Determination, the SPDs will agree the identity of the Expert (who need not be one of the experts proposed by the referring SPD) and the terms of the expert determination agreement (including the precise questions to be put to the Expert).
- 5.4 If the SPDs are unable to agree on the identity of the Expert, the SPDs will ask the Society for Computers and Law or, if unavailable, an equivalent body to appoint an Expert; and/or the terms of the expert determination agreement, the Expert will assist the SPDs with agreeing the terms.
- 5.5 The Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate. The SPDs will be bound by these procedures.
- 5.6 The Expert Determination shall be conducted in line with the following
- 5.6.1 the Expert’s determination shall (in the absence of manifest error, fraud or material failure to follow the agreed procedures) be final and binding on the SPDs;
  - 5.6.2 the Expert may award interest as part of their decision;

- 5.6.3 the parties shall decide the procedure in the expert determination agreement, but the Expert shall have the right to order directions, additional processes/procedures;
- 5.6.4 the Expert shall be requested to make his/her determination within thirty (30) Working Days of their appointment or as soon as reasonably practicable thereafter and the SPDs shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- 5.6.5 any amount payable by one SPD to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the SPDs;
- 5.6.6 the Expert may direct that any legal costs and expenses incurred by a SPD in respect of the determination shall be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, a direction on that basis is not appropriate in relation to the whole or part of such costs;
- 5.6.7 the Expert's fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the SPDs equally or in such other proportions as the Expert shall direct;
- 5.6.8 unless agreed by the SPDs and the Expert, the expert determination process will conclude within six (6) months; and
- 5.6.9 all matters concerning the expert determination shall be kept confidential between the SPDs and the Expert.

## **6 URGENT RELIEF**

- 6.1 Any of the SPDs may at any time:
  - 6.1.1 apply to the court for urgent injunctive relief or other interim remedies except where the subject matter of that application is already covered by a Dispute that has been referred to:
    - (a) Adjudication under Paragraph 4; or
    - (b) Expert determination under Paragraph 5 (where the expert determination agreement has been agreed and signed by the SPDs and the Expert);
  - 6.1.2 commence court proceedings where the Dispute Resolution Procedure may leave insufficient time for any of the SPDs to commence proceedings before the expiry of the limitation period.

## **7 MULTI-PARTY DISPUTES**

- 7.1 If any of the SPDs reasonably believe that a Related Third Party is potentially liable for some or all of the issues arising under the Dispute, and reasonably believes the involvement of the Related Third Party would assist the SPDs in finding resolution of the Dispute, that Supplier shall:
  - 7.1.1 If it is the Supplier serving the Dispute Notice, state in the Dispute Notice that they consider this to be a multi-party dispute, the name of the Related Third Party, and how they are potentially liable; or
  - 7.1.2 If it is the Supplier receiving the Dispute Notice, state in writing to the other SPDs within five (5) Working Days, that they consider this to be a multi-party dispute, the name of the Related Third Party, and how they are potentially liable;

- 7.2 The Supplier claiming the dispute is a multi-party dispute, shall then use its reasonable endeavours to:
- 7.2.1 procure the involvement of the relevant Related Third Party in the negotiation under Paragraph 3 of this Schedule, and
  - 7.2.2 if the Dispute is referred to adjudication under Paragraph 4 of this Schedule or expert determination under Paragraph 5 of this Schedule, procure as that Supplier deems appropriate, either the:
    - (a) inclusion of the Related Third Party as an additional party in the adjudication or expert determination; or
    - (b) the assistance of the relevant Related Third Party (evidence and/or information relevant to the Dispute) to assist the expert or adjudicator in reaching a decision.



## SCHEDULE 3 – OPERATIONS MANUAL & DEPENDENCIES

### 1 CONTEXT & PURPOSE

- 1.1 The Operations Manual is designed to provide a consolidated view across the Suppliers and the Director of the policies, processes and procedures necessary to support the Director's End to End Service requirements as set out under the Service Agreements at an operational level.
- 1.2 The Operations Manual provides the Parties with the ability to understand all key policies, processes and procedures that are needed to provide the Director with outcomes to meet their requirements under their Service Agreements and to see upstream and downstream Responsibility Matrix, Dependencies and handovers across the End to End Services.
- 1.3 The Operations Manual will detail the Responsibility Matrix and the Dependencies that flow from it.

### 2 INITIAL OPERATIONS MANUAL

- 2.1 All processes created as part of the Operations Manual will have a unique reference and all related policies and procedures will have a reference that links to the relevant process.
- 2.2 All processes that form part of the Operations Manual will show the owner of any step in the process so that primary responsibility for that process step can be clearly identified.

### 3 CHANGES TO THE OPERATION MANUAL

- 3.1 All changes to the Responsibility Matrix and/or Dependencies will be considered a Change and must follow the Change Control Procedure in accordance with the Supplier's respective Service Agreement.
- 3.2 All change control notes raised under the Service Agreements which represent an addition, deletion, or modification to the processes, policies and procedures in the Operations Manual will be captured using a change sheet (an "**Operations Manual Change Sheet**") which will be used as the basis for ensuring that:
  - 3.2.1 modified, new or deleted policies, processes and procedures that provide Dependencies for the Director or Suppliers are captured;
  - 3.2.2 new Dependencies for the Director or Suppliers are authorised and validated by the Supplier raising the Operations Manual Change Sheet with any Supplier who are having a Dependency placed upon them to the Director;
  - 3.2.3 all changes to the Operations Manual are reviewed by the Collaboration Managers;
  - 3.2.4 all modified, new or deleted policies, processes and procedures that have no Dependencies and/or do not change the Responsibility Matrix shall be treated as a pre-approved Change and will be captured at baseline and document version release; and
  - 3.2.5 the Director retains final approval for all changes made to the Operations Manual and may reject any Operations Manual Change Sheet.
- 3.3 Once any change to the Operations Manual has either been agreed between the Parties or, if unable to agree, determined by the Director the Operations Manual will be updated by the Director as a minor version and re-issued to all Suppliers.

## **SCHEDULE 4 – DEED OF ACCESSION**

### **Part 1**

#### **DEED OF ACCESSION**

##### **(1) NATIONAL SAVINGS AND INVESTMENTS**

(2) [ • ]

(3) [ • ]

(4) [ • ]

(5) [ • ]

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#### **DEED OF ACCESSION TO THE COLLABORATION AGREEMENT**

relating to the onboarding of a new supplier [as awarded under the [x] procurement] to the  
Collaboration Agreement between the existing Suppliers and the Director

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**THIS DEED OF ACCESSION** is made on [ ]

**BETWEEN:**

- (1) [ ] whose registered office is at [ ] (the “**Director**”);
- (2) [ ] whose registered office is at [ ] ([ ]);
- (3) [ ] whose registered office is at [ ] ([ ]);
- (4) [ ] whose registered office is at [ ] ([ ]); and
- (5) [ ] whose registered office is at [ ] ([ ]); (the “**New Supplier**”);

**WHEREAS:**

- (A) The Director and each of the above-named Parties (the “**Existing Parties**”) have entered into an agreement (the “**Collaboration Agreement**”) dated [ ] and the Director and each of the above named Parties have entered into Service Agreements (as defined in the Collaboration Agreement).
- (B) the Director has, or will on or about the date hereof, enter/entered into a new Service Agreement with the New Supplier (the “**New Service Agreement**”) with the purpose of performing services necessary as part of the End to End Services required by the Director. In connection therewith, the Existing Parties and the New Supplier wish to join the New Supplier as a party to the Collaboration Agreement.

**NOW THIS DEED WITNESSES** as follows:

**1 COMMENCEMENT**

This Deed shall become effective on the date that the New Supplier is obliged to commence to perform its services under the terms of its Service Agreement (the “**Effective Date**”).

**2 ACCEPTANCE OF LIABILITY BY NEW SUPPLIER**

The New Supplier accepts all future rights and obligations under the Collaboration Agreement and agrees to perform all the future duties and to discharge all the future obligations of it [in respect of the collaboration activities required under the Collaboration Agreement] and to be bound by all its terms and conditions from the Effective Date. The Parties agree that the New Supplier shall not assume any liability arising prior to the Effective Date.

**3 LAW**

This Deed and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England.

## **Part 2**

### **DEED OF ACCESSION**

#### **(1) NATIONAL SAVINGS AND INVESTMENTS**

(2) [ • ]

(3) [ • ]

(4) [ • ]

(5) [ • ]

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### **DEED OF ACCESSION TO THE COLLABORATION AGREEMENT**

**relating to the onboarding of a subsequent replacement supplier of an existing supplier to the  
Collaboration Agreement between the existing suppliers and the Director**

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**THIS DEED OF ACCESSION** is made on [ ]

**BETWEEN:**

- (1) [ ] whose registered office is at [ ] (the “**Director**”);
- (2) [ ] whose registered office is at [ ] ([ ]);
- (3) [ ] whose registered office is at [ ] ([ ]);
- (4) [ ] whose registered office is at [ ] ([ ]); and
- (5) [ ] whose registered office is at [ ] ([ ]); (the “**New Supplier**”);

**WHEREAS:**

- (A) The Director and each of the above-named Parties (the “**Existing Parties**”) have entered into an agreement (the “**Collaboration Agreement**”) dated [ ] and the Director and each of the above named Parties have entered into Service Agreements (as defined in the Collaboration Agreement).
- (B) The Director has entered into a Service Agreement with [terminated Supplier] (the “**Former Supplier**”) and the Former Supplier was a party to the Collaboration Agreement. The Former Supplier's Service Agreement was terminated on [date] and the Former Supplier's participation in the Collaboration Agreement terminated on the same date in accordance with the terms of that agreement.
- (C) the Director has, or will on or about the date hereof, enter/entered into a new Service Agreement with the New Supplier (the “**New Service Agreement**”) with the purpose of replacing the Former Supplier. In connection therewith, the Existing Parties and the New Supplier wish to join the New Supplier as a party to the Collaboration Agreement.

**NOW THIS DEED WITNESSES** as follows:

**1 COMMENCEMENT**

This Deed shall become effective on the date that the New Supplier is obliged to commence to perform its services under the terms of its Service Agreement (the “**Effective Date**”).

**2 RELEASE**

The Existing Parties release and discharge the Former Supplier and the Former Supplier releases and discharges the Existing Parties from future performance of their respective obligations [in respect of the collaboration activities required under the Collaboration Agreement but such release and discharge shall be without prejudice to all rights and liabilities accruing as between the former Supplier and the Existing Parties under the Collaboration Agreement as at the date of this Deed.

**3 ACCEPTANCE OF LIABILITY BY NEW SUPPLIER**

The New Supplier accepts all future rights and obligations of the Former Supplier under the Collaboration Agreement and agrees to perform all the future duties and to discharge all the future obligations of it [in respect of the collaboration activities required under the Collaboration Agreement] and to be bound by all its terms and conditions from the Effective Date. The Parties agree that the New Supplier shall not assume any liability arising prior to the Effective Date.

**4 LAW**

This Deed and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England.