

Agreement relating to the supply of Court Audio Recording and Audio Equipment and Maintenance

THIS CONTRACT IS DATED 2024

PARTIES

- (1) THE SECRETARY OF STATE FOR THE MINISTRY OF JUSTICE, of 102 Petty France, London, SW1H 9AJ (the **Buyer**); and
- (2) VP-AV LIMITED, whose registered number is 2095600 and whose registered office is at Innovation House, Hopkinson Way, Andover, Hampshire, SP10 3UR (the **Supplier**).

Schedules

1. Definitions
2. Specification
3. Charges
4. Rectification Plan
5. Commercially Sensitive Information
6. TUPE
7. Installation Works
8. Service Levels
9. Continuous Improvement
10. Price Review
11. Contract Management
12. Business Continuity and Disaster Recovery
13. Statutory Obligations and Corporate Social Responsibility
14. Security
15. Variation Form
16. Insurance Requirements
17. ICT Services
18. Key Supplier Staff
19. Exit Management
20. Intellectual Property Rights
21. Cyber Essentials
22. Processing Data

Schedule 1 (Definitions)

1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Contract, unless the context otherwise requires:
 - 1.3.1 reference to a gender includes the other gender and the neuter;
 - 1.3.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023);
 - 1.3.4 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.5 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.6 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under this Contract;
 - 1.3.7 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.8 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
 - 1.3.9 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
 - 1.3.10 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole; and
 - 1.3.11 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to

form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

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

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;
"Annex"	extra information which supports a Schedule;
"Approval"	the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly;
"Associates"	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
"Audit"	<p>the Buyer's right to:</p> <ul style="list-style-type: none">(a) verify the integrity and content of any Financial Report;(b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with this Contract);(c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;(d) verify the Open Book Data;(e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;(f) identify or investigate actual or suspected breach of Clauses 3 to 37, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;

- (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;
- (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
- (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
- (k) 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 Buyer has used its resources;

"Auditor"

- (a) the Buyer's internal and external auditors;
- (b) the Buyer'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 Buyer to carry out audit or similar review functions; and
- (f) successors or assigns of any of the above;

"Award Form"

the document outlining the Incorporated Terms and crucial information required for this Contract, to be executed by the Supplier and the Buyer;

"Buyer"

the public sector purchaser identified as such in the Order Form;

"Buyer Assets"

the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of this Contract;

"Buyer Authorised Representative"	the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form;
"Buyer Cause"	has the meaning given to it in the Award Form;
"Buyer Existing IPR"	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Crown Body, any Crown IPR, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise) but excluding Buyer Software;
"Buyer Premises"	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Buyer Property"	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
"Buyer Software"	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
"Buyer System"	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
"Buyer Third Party"	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
"Buyer's Confidential Information"	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with this Contract; and</p> <p>information derived from any of the above;</p>

"Change in Law"	any change in Law which impacts on the supply of the Deliverables and performance of this Contract which comes into force after the Effective Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under this Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under this Contract less any Deductions;
"Commercially Sensitive Information"	the Confidential Information listed in Schedule 5 (Commercially Sensitive Information (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " confidential ") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
"Contract Period"	the term of this Contract from the earlier of the: <ul style="list-style-type: none"> (a) Start Date; or (b) the Effective Date, until the End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under this Contract where all obligations are met by the Supplier;

"Contract Year"	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Core Terms"	the Buyer's terms and conditions which apply to and comprise one part of this Contract set out in the document called "Core Terms" ;
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> (a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> (i) base salary paid to the Supplier Staff; (ii) employer's National Insurance contributions; (iii) pension contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training; (vii) work place accommodation; (viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and (ix) reasonable recruitment costs, as agreed with the Buyer; (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and

- (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;

but excluding:

- (a) Overhead;
- (b) financing or similar costs;
- (c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;
- (d) taxation;
- (e) fines and penalties;
- (f) amounts payable under Schedule 10 where such Schedule is used; and
- (g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

**"COTS Software" or
"Commercial off the
shelf Software"**

non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;

"Crown Body"

the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

"Crown IPR"

means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);

"CRTPA"

the Contract Rights of Third Parties Act 1999;

**"Data Protection
Legislation"**

(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;

**"Data Protection
Liability Cap"**

has the meaning given to it in the Award Form;

**"Data Protection
Officer"**

has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;

"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"REDACTED"	REDACTED
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under this Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of this Contract in breach of its terms) or any other default (including Material Default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Buyer;
"Defect"	<p>any of the following:</p> <ul style="list-style-type: none"> (a) any error, damage or defect in the manufacturing of a Deliverable; or (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or (c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; or (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

"Deliverables"	Goods, Services or software that may be ordered and/or developed under this Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of this Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"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 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 Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
"Digital Audio Recorder" or "DAR"	an evidential multi-channel recording software installed on a PC;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
"Documentation"	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under this Contract as:

	<ul style="list-style-type: none"> (a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables (b) is required by the Supplier in order to provide the Deliverables; and/or (c) has been or shall be generated for the purpose of providing the Deliverables;
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
"DPA 2018"	The Data Protection Act 2018;
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;
"Effective Date"	the date on which the final Party has signed this Contract;
"EIR"	the Environmental Information Regulations 2004;
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
"End Date"	<p>the earlier of:</p> <ul style="list-style-type: none"> (a) the Expiry Date as extended by the Buyer under Clause 14.2; or (b) if this Contract is terminated before the date specified in (a) above, the date of termination of this Contract;
"End User"	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;

"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
"Estimated Yearly Charges"	<p>means for the purposes of calculating each Party's annual liability under Clause 15.1:</p> <ul style="list-style-type: none"> (a) in the first Contract Year, the Estimated Year 1 Charges; or (b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or (c) after the end of this Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
"EU GDPR"	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 (General Data Protection Regulation) as it has effect in EU law;
"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Start Date or otherwise);
"Exit Plan"	has the meaning given to it in Paragraph 4.1 of Schedule 19 (Exit Management);
"Expiry Date"	the date of the end of this Contract as stated in the Award Form;
"Extension Period"	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
"FDE Group"	the Supplier and any Additional FDE Group Member;
"Financial Distress Event"	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency; (b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects; (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;

- (d) any FDE Group entity commits a material breach of covenant to its lenders;
- (e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- (i) any of the following:
 - (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (iii) non-payment by any FDE Group entity of any financial indebtedness;
 - (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
 - (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
 - (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or

including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with this Contract; or

"Financial Report"

a report provided by the Supplier to the Buyer that:

- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
- (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);
- (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract; and
- (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;

"Financial Transparency Objectives"

means:

- (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;
- (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
- (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;
- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;

"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and (iii) any failure of delay caused by a lack of funds, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
"Force Majeure Notice"	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;
"General Anti-Abuse Rule"	<ul style="list-style-type: none"> (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;

"General Change in Law"	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Goods"	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
"Good Industry Practice"	At any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:</p> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</p> <p>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Buyer is Controller;</p>
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	His Majesty's Revenue and Customs;
"ICT Environment"	the Buyer System and the Supplier System;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Award Form (if used), which is in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;

"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> (a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract; (b) details of the cost of implementing the proposed Variation; (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and (e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
"Incorporated Terms"	the contractual terms applicable to this Contract specified in the Award Form;
"Indexation"	the adjustment of an amount or sum in accordance with this Contract;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of this Contract specified in the Award Form;
"Insolvency Event"	<p>with respect to any person, means:</p> <ul style="list-style-type: none"> (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: <ul style="list-style-type: none"> (i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its

debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
- (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where that person is a company, an LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
 - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;
 - (iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
 - (iv) (being a partnership) the holder of an agricultural floating charge over the assets of

	that person has become entitled to appoint or has appointed an agricultural receiver; or
	(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;
"Installation Acceptance Test"	verification that the Goods are operating to the Specification;
"Installation Works"	all works which the Supplier is to carry out during the Contract Period to install the Goods in accordance with this Contract;
"Intellectual Property Rights" or "IPR"	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR (excluding COTS Software where Part B of Schedule 20 (Intellectual Property Rights) is used), used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controllers"	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
"Key Staff"	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 18 (Key Supplier Staff);

"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	<p>any Subcontractor:</p> <ul style="list-style-type: none"> (a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or (b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or (c) with a Sub-Contract with this Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract, <p>and the Supplier shall list all such Key Subcontractors in the Award Form;</p>
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Effective Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
"Law Enforcement Processing"	processing under Part 3 of the DPA 2018;
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

"Material Default"	A rating of inadequate in relation to the same SLA occurring in 3 consecutive months
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR or Specially Written Software;</p>
"New IPR Item"	means a deliverable, document, product or other item within which New IPR subsists;
"Notifiable Default"	<p>means:</p> <p>(a) the Supplier commits a Material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
"Object Code"	software and/or data in machine-readable complied object code form;
"Occasion of Tax Non-Compliance"	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle</p>

or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

- (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;

"Open Book Data"

complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of this Contract, including details and all assumptions relating to:

- (a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;
- (b) operating expenditure relating to the provision of the Deliverables including an analysis showing:
 - (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;
 - (iii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
 - (iv) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and
 - (v) Reimbursable Expenses, if allowed under the Award Form;
- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;

- (e) the Supplier Profit achieved over the Contract Period 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 Deliverables, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period;

"Open Licence"

means any material that is published for use, with rights to access, copy, modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> and the Open Standards Principles documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, and includes the Open Source publication of Software;

"Open Source"

computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;

"Open Licence Publication Material"

means items created pursuant to this Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;

"Overhead"

those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";

"Parent Undertaking"

has the meaning set out in section 1162 of the Companies Act 2006;

"Parliament"

takes its natural meaning as interpreted by Law;

"Party"

the Buyer or the Supplier and **"Parties"** shall mean both of them where the context permits;

"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in "Whistleblowing: list of prescribed people and bodies", 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
"Processing"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;
"Prohibited Acts"	<ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or (c) committing any offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or (ii) under legislation or common law concerning fraudulent acts; or (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if

such activity, practice or conduct had been carried out in the UK;

"Protective Measures"	technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 14 (Security);
"Public Sector Body "	means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none">(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for

	any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
"Request For Information"	a request for information or an apparent request relating to this Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Action"	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
"Required Insurances"	the insurances required by Schedule 16 (Insurance Requirements);
"Schedules"	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Schedule 14 (Security) (if applicable);
"Security Policy"	the Buyer's security policy, referred to in the Award Form (if used), in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Levels"	any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 8 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Award Form;
"Services"	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
"Sites"	<p>any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none"> (a) the Deliverables are (or are to be) provided; or (b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;

	(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided);
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Social Value"	the additional social benefits that can be achieved in the delivery of this Contract
"Software"	any software including Specially Written Software, COTS Software and software that is not COTS Software;
"Software Supporting Materials"	has the meaning given to it in Schedule 20 (Intellectual Property Rights);
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Special Terms"	any additional terms and conditions set out in the Award Form incorporated into this Contract;
"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Effective Date;
"Specification"	the specification set out in Schedule 2 (Specification);
"Standards"	any:

- (a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;
- (b) standards detailed in the specification in Schedule 2 (Specification);
- (c) standards agreed between the Parties from time to time;
- (d) relevant Government codes of practice and guidance applicable from time to time;

"Start Date"

the date specified on the Award Form;

"Step-In Process"

the process set out in Clause 13;

"Step-In Trigger Event"

means:

- (a) the Supplier's level of performance constituting a Critical Service Level Failure;
- (b) the Supplier committing a Material Default which is irremediable;
- (c) where a right of termination is expressly reserved in this Contract;
- (d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;
- (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;
- (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;
- (g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;
- (h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or
- (i) a need by the Buyer to take action to discharge a statutory duty;

"Storage Media"

the part of any device that is capable of storing and retrieving data;

"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party: <ul style="list-style-type: none"> (a) provides the Deliverables (or any part of them); (b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or (c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
"Subsidiary Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Supplier"	the person, firm or company identified in the Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets;
"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
"Supplier Equipment"	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
"Supplier Existing IPR"	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
"Supplier Existing IPR Licence"	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Schedule 20 (Intellectual Property Rights);
"Supplier Group"	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
"Supplier New and Existing IPR Licence"	means a licence to be offered by the Supplier to the New IPR and Supplier Existing IPR as set out in Schedule 20 (Intellectual Property Rights); but excluding Buyer Software.

"Supplier Non-Performance"	<p>where the Supplier has failed to:</p> <ul style="list-style-type: none"> (a) Achieve a Milestone by its Milestone Date; (b) provide the Goods and/or Services in accordance with the Service Levels ; and/or (c) comply with an obligation under this Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of this Contract for the relevant period;
"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under this Contract;
"Supplier System"	the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
"Supplier's Confidential Information"	<ul style="list-style-type: none"> (a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; (b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract; (c) information derived from any of (a) and (b) above;
"Supplier's Contract Manager"	the person identified in the Award Form appointed by the Supplier to oversee the operation of this Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable

	Expenses and other sums due from the Buyer under this Contract detailed in the information are properly payable;
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance;
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
"Test Plan"	a plan: <ul style="list-style-type: none"> (a) for the Testing of the Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to this Contract as set out in the Test Plan or elsewhere in this Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Third Party IPR Licence"	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 20 (Intellectual Property Rights);
"Transparency Information"	the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Commercially Sensitive Information;
"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
"Variation"	means a variation to this Contract;
"Variation Form"	the form set out in Schedule 15 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 28 (Changing the contract);

"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Work Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

Schedule 2 (Specification)

Contents

1	Introduction
2	Requirements
3	Installation Specification.....
4	Digital Audio Recording Equipment Specification
5	Service Support and Maintenance Services
6	Contract Staff - Security

1 Introduction

- 1.1 This Specification, which shall form part of the Contract, sets out the requirement for the provision of digital and audio recording equipment to the Buyer and other Crown Bodies. Installation and support services may vary according to specific requirements.
- 1.2 The Buyer is required under paragraph 6.1 of Civil Practice Direction 39A to record all court hearings unless the judge directs otherwise.
- 1.3 In many cases this record is an audio record of the proceedings. The parties to proceedings and members of the public may request transcripts of the recordings.
- 1.4 Due to future growth and changing technologies in digital recording, the Buyer requires the Supplier to:
 - (a) understand this evolving process and work with the Buyer towards achieving its aims of access to justice; and
 - (b) contribute to innovative and effective solutions and work with the Buyer to develop and implement further improvements throughout the Contract Period.

2 Requirements

- 2.1 The Supplier shall supply to the Buyer the following Goods in accordance with the Specification:
 - (a) Digital Audio Recorder (DAR);
 - (b) recording media and storage audio equipment;
 - (c) audio equipment;
 - (d) installation materials including cabling.
- 2.2 The Supplier shall perform the installation and service support Services using reasonable care and skill in accordance with Good Industry Practice and with the Specification.
- 2.3 The Supplier shall supply and maintain DAR equipment, recording media and storage audio equipment, audio equipment and installation materials including delivery, installation and maintenance as set out in this Schedule 2.
- 2.4 The Buyer reserves the right to request the provision and/or installation of additional systems, components of systems, or Goods at any time during the Contract Period. Upon receiving such request(s), the Supplier shall use all reasonable endeavours to comply with the Buyer's request(s) and to provide and/or install the requested systems, components, or Goods within the Contract Period.
- 2.5 The Supplier shall be responsible for the maintenance and support of all Goods whether under this Contract or previous contracts.
- 2.6 Where a new or replacement DAR and/or audio equipment is required, the Supplier shall supply installation, training, documentation and after sales support to enable the Buyer's Staff to effectively, and safely, use the Goods.

- 2.7 The Buyer relies on the Supplier's knowledge, skill and expertise to provide the Goods and Services. It is the Supplier's responsibility to ensure the Goods and Services meet the requirements set out in this Schedule 2.
- 2.8 The Supplier must ensure that the Goods meet the following requirements:
- (a) The audio recordings must be of sufficient quality to be easily audible to all those in court without being overly loud and that interference from background noise is minimised. For the avoidance of doubt, the following applies:
 - i) the quality of the recordings and minimisation of background noise is dependent on the quality of the feeds from the microphones supplied with the recording equipment, or from the in-courtroom sound systems (the more normal feed);
 - ii) the audibility of the recordings when played back within the courtroom will be dependent on the in-courtroom sound system, and size of rooms. Certain environments may require additional speakers/amplification;
 - iii) elimination of background noise is best achieved via recording channel (speaker) isolation.
 - (b) The Goods can be easily used by non-technically trained persons.
 - (c) The Goods, where applicable, can work off a mains electricity supply of 240V 50Hz without a transformer.
 - (d) Where the Goods is a DAR, the digital audio recordings shall be easily loaded onto the Buyer's server. The DAR equipment should be capable of being networked to allow central (server) storage of audio files in the future, should this requirement be explored further. The Supplier is responsible for the current networked sites and future networking is not implied. This connection should be via a standard RJ45 connector. The Supplier shall ensure that:
 - i) the digital audio recordings can be stored in a format that permits playback without the use of proprietary software;
 - ii) the digital audio recording format is based on open standards with API (application programming interface) to allow, for example, integration capability with case management systems;
 - iii) network transfer and storage is guaranteed i.e. the ability to transfer and store recordings over a network.
 - (e) The digital audio recording format must be able to be downloaded on to a CD format for easy upload by the Buyer's transcribers. The recording must be capable of being transcoded into common formats (i.e. WAV, Windows, Media Player or MP3 formats) to be able to be read by non-proprietary software.
- 2.9 No Goods or parts of Goods, which are installed or provided, shall have been used previously unless:
- (a) moved from one court to another at the request of the Buyer; or
 - (b) supplied to the Buyer under this Contract and removed for repair, in which case it must not be installed at any location except as a temporary replacement unless otherwise agreed in writing by the appropriate Buyer's representative.
- 2.10 The Supplier shall install all Goods to the Buyer's satisfaction and in positions agreed by the Buyer in each courtroom. The installation shall be in accordance with Good Industry Practice

and to the requirements set out in the Contract including Schedule 7. For clarity, removable recording storage media e.g. CDs shall be provided on a supply only basis.

3 Installation Specification

Installation Works

- 3.1 The Installation Works include:
- (a) off-site preparatory engineering including PC image build, PC configuration, testing;
 - (b) A fixed fee for the installation of DAR equipment (including cables required for DAR) regardless of any environmental constraints that may need to be overcome;
 - (c) audio equipment permanently installed in a room subject to a site survey and quotation;
 - (d) user training, after installation (same visit or other time, as agreed by the Parties at the time of installation).
- 3.2 The provision of electrical supply shall be provided by the Buyer and is outside the scope of this Contract. The Supplier shall advise the Buyer Authorised Representative whether additional electrical point(s) are required prior to the installation of the Goods.
- 3.3 The Supplier must ensure that all the permanently installed installation cabling is installed as unobtrusively as possible while still meeting all other requirements under the Contract. For example, concealing the cabling runs by using existing trunking, floor and/or ceiling voids where possible. Where existing trunking etc is not available/ suitable, the Supplier must conceal the cables by alternative means subject to the agreement of the Buyer Authorised Representative. For portable and handheld units this is not possible, as the environment will change, and the Buyer's Staff shall be responsible for these mobile units.
- 3.4 Where the Supplier uses existing installation cabling, it must ensure that it is in working order. Where existing installation cabling is used, the Supplier will ensure, at the time of installation, that satisfactory recording feeds are provided by the installation cabling.
- 3.5 If the installation cabling is below specification, the Buyer Authorised Representative will be informed and the Parties shall agree a date and time for the Supplier to return when the existing installation cabling provides satisfactory recording feeds.
- 3.6 The Supplier's normal working hours are 08.30 - 17.30 on Working Days. Where access to Buyer's Site(s) is required by the Supplier for the purposes of delivering the Goods and/or Services, the Supplier shall make access arrangements with the Buyer Authorised Representative.
- 3.7 The Buyer may, from time to time, request the Supplier to deliver the Goods and/or Services outside the times specified in paragraph 3.6 above. The Supplier shall comply with such requests subject to an additional, reasonable cost to be agreed with the Buyer.
- 3.8 The Supplier will deliver the Goods to the Buyer's Site(s) to enable the Supplier to install the Goods at the times and Buyer Site(s) directed by the Buyer Authorised Representative.
- 3.9 All Installation Works must be carried out and completed by the Supplier in accordance with an agreed project plan unless otherwise agreed in writing by the appropriate Buyer Authorised Representative.

- (a) The Supplier will outline the installation lead-times and available dates, in accordance with the service levels, at quotation stage. The Supplier shall use all reasonable endeavours to meet non-standard lead-times as required.
 - (b) Once the Supplier has agreed key dates with the Buyer, the Supplier shall install the Goods in accordance with those dates, the Specification contained in this Contract, and in accordance with reasonable requirements of the Buyer Authorised Representative.
- 3.10 If a project plan cannot be agreed, the dispute will be escalated to the Parties' Contract Managers.
- 3.11 The Supplier must immediately advise the Buyer Authorised Representative and Contract Manager of any potential or anticipated changes to the agreed project plan.
- 3.12 Where the Supplier reasonably believes it has completed the Installation Works it shall notify the Buyer in writing. Following receipt of such notice, the Buyer shall inspect the Installation Works and shall, by giving written notice to the Supplier:
 - (a) accept the Installation Works, or
 - (b) reject the Installation Works and provide reasons to the Supplier if, in the Buyer's reasonable opinion, the Installation Works do not meet the requirements set out in the Award Form (or elsewhere in this Contract).
- 3.13 If the Buyer rejects the Installation Works in accordance with paragraph 3.12(b) above, the Supplier shall immediately rectify or remedy any defects and if, in the Buyer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Award Form (or elsewhere in this Contract), the Buyer may terminate this Contract for Material Default.
- 3.14 The Installation Works shall be deemed to be completed when the Supplier receives a notice issued by the Buyer in accordance with paragraph 3.12(a) above. Notwithstanding the acceptance of any Installation Works in accordance with paragraph 3.12(a) above, the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Award Form (or elsewhere in this Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Buyer of the Installation Works.
- 3.15 Throughout the Contract Period, the Supplier shall always have all licences, approvals and consents necessary to enable the Supplier and the Supplier Staff to carry out the Installation Works.
- 3.16 Where the Installation Works have been performed on the Buyer's Site(s), the Supplier shall make good, unless otherwise stated in the quotation and agreed by the Buyer.
- 3.17 The Supplier shall be entirely responsible for the removal of all waste arising from the delivery of the Goods and/or Services from the Buyer's Site(s) either at the end of the installation or on a weekly basis including the removal of legacy Goods subject to the Buyer's consent not to be unreasonably withheld.
- 3.18 The Supplier shall return all waste and/or surplus materials to its own Site(s) or transport it to the Buyer's local and official or other approved refuse disposal area. In either case, there will be no additional charge to the Buyer. The Supplier shall not charge the Buyer for packaging or cases used for the supply/delivery of the Goods.

Supplier's Installation Materials

- 3.19 The Supplier shall provide all the necessary installation materials to install the DAR equipment and audio equipment to meet the Specification. This includes:

- (a) connection cables between the DAR equipment and the audio interface, and between the microphones and the audio interface;
- (b) the mounting bracket for the audio interface;
- (c) 4-way power surge protected extension lead for DAR equipment and audio equipment;
- (d) other materials such as connection boxes, and up to 3m of cable trunking; where cable trunking is required in excess of 3m, the Supplier shall provide a separate quotation.

Goods Testing

- 3.20 On installation of any Goods, the Supplier shall test and ensure that all Buyer requirements have been met and to the satisfaction of the Buyer Authorised Representative at the Buyer's Site(s). The Supplier shall complete an Installation Acceptance Test, which will be left with the site documentation, to confirm conformity against the Specification.
- 3.21 If the Goods should fail any of the tests referred to at Clause 3.16 above, the Supplier will repair/replace the equipment within 24 hours at no additional cost to the Buyer.
- 3.22 The Supplier shall ensure that all Goods bear a serial number and are marked with the Supplier's name and date of installation. The label will be placed on the Goods in a position that this is clearly visible.

Training

- 3.23 The system should be easy for any of the Buyer's Staff, with minimal training, to understand and operate all functions fully.
- 3.24 The Supplier shall provide to the Buyer Authorised Representatives a standard training programme for each of the Goods (excluding supply only media e.g. CDs). The Supplier can provide additional training upon request.
- 3.25 The Supplier's on-site training will include:
 - (a) training the nominated Buyer's Staff on how to operate the core functions of the Goods and/or systems;
 - (b) familiarise the nominated Buyer's Staff with the DAR equipment electronic user guide and/or audio equipment operating documentation;
 - (c) familiarise the nominated Buyer's Staff with fault diagnosis, quick fixes and incident reporting procedures and requirements.
- 3.26 The Supplier shall supply the following documentation with the DAR equipment:
 - (a) electronic user guide installed on DAR PC;
 - (b) service guidelines (common questions and answers, including how to report a service incident);
 - (c) Installation Acceptance Test.

4 DAR Specification

DAR

- 4.1 The Supplier will supply to the Buyer both fixed and portable DAR PC-based solutions specifying the solution which best meets the operating requirements of the individual Buyer Site, as follows:

- (a) Fixed - A small form factor PC is provided with sufficient storage for 3 years of digital audio recordings with the option to purchase a second hard drive or internal RAID to minimise the risk of loss of recorded content.
- (b) Portable - A laptop based DAR for portable use. Portable systems to be supplied with all equipment required for a four channel DAR system, audio interface, microphones, cables and a laptop roller case for ease of storage and transport.
- (c) Networking and networked storage equipment where centralised storage is required in accordance with the Buyer's requirements.

DAR audio equipment

4.2 The Supplier shall provide with each DAR:

- (a) a headset for confidence monitoring and testing (and to facilitate playback during hearings);
- (b) 50 CDs with jewel cases for recordings archival;
- (c) required connecting cables.

4.3 Where there is no suitable audio mixer or digital signal processor present, a four-channel audio interface is required to convert the analogue audio signal into digital format for ingestion into the recording PC. The Supplier shall provide the following two options to the Buyer:

- (a) A 4 channel USB audio interface
- (b) A project REDACTED compliant digital signal processor.

4.4 Where there are no existing microphones, the Supplier will supply microphones to the Buyer to capture the audio for DARs:

- (a) REDACTED microphones, desktop stands, 6m cables, a pair of desktop speakers and a USB audio Interface;
- (b) REDACTED microphones, desktop stands, 6m cables, a pair of desktop speakers and a USB audio Interface;
- (c) REDACTED microphones, 6m cables and a USB audio interface.

Ongoing Supply of CDs for Archiving

4.5 The Supplier shall provide A-Grade CDs which shall have the facility whereby the person archiving the content can note the date/time range, the court location and court/chamber ID to aid content retrieval.

4.6 The Buyer acknowledges that archiving should be done daily as it reduces time and because there is no storage redundancy on the PC. Archiving onto basic CDs will result in degradation of the audio quality on the CD over time.

Project REDACTED compliant audio equipment for permanent audio installation

4.7 The Buyer may instruct the Supplier to install project REDACTED compliant audio equipment, as detailed in Schedule 3, in order to enable:

- (a) digital audio recording deployment where the audio processing equipment needs to be replaced or supplied
- (b) to enable REDACTED compliant audio to be installed as part of an Estates project for example new Secure Dock installations

5 Service Support and Maintenance Services

Service Desk

- 5.1 The Supplier shall provide a service desk to the Buyer whereby the Buyer's service support requests will be answered. The service desk will be open 08.30 to 17.30 on Working Days. The Buyer's service support requests can be logged by phone or to a dedicated service email account.
- 5.2 The Supplier's service desk agent will log the Buyer's service support request and raise a unique numbered service ticket against which all tasks and events are logged until the Buyer authorises closure.
- 5.3 The Buyer Authorised Representative requesting service support should provide the following information:
- (a) the Buyer Site location and room (e.g. Courtroom) number;
 - (b) the serial number of the DAR;
 - (c) a description of the issue, and when access to the courtroom is available;
 - (d) the Buyer Site contact and phone number (to enable the Supplier's engineer to phone back).
- 5.4 When logging the call, the Supplier's service desk agent will discuss prioritisation with the Buyer Authorised Representative to agree response prioritisation in accordance with the service levels defined in Schedule 8.

Support Levels

1st Line Support (remote)

- 5.5 The Supplier's service desk agent will provide advice and guidance to help the Buyer's service support request to be resolved over the phone.

2nd Line Support (remote)

- 5.6 If the Buyer's service support request cannot be resolved over the phone, the Supplier's service desk agent shall forward the call to the Supplier's engineer. If no Supplier engineer is available, the Supplier shall arrange a call back. If the Buyer's service support request cannot be resolved remotely, the Supplier shall arrange for the Supplier's engineer to attend the Buyer Site.

2nd Line Support (on-site)

- 5.7 Where attendance at the Buyer Site is required, the Supplier is required to arrange Site attendance outside normal court sitting times e.g. 08.00 -10.00, recess for lunch, or between 16.00 - 17.30 – depending on court sitting times. If the reported fault is preventing the court/hearing room from sitting, the Supplier shall prioritise the Buyer's service support request and, where possible, arrange for the Supplier's engineer to attend the affected Buyer Site the next day. The Supplier's ability to meet service levels are dependent on the Buyer Authorised Representative providing access to the Supplier's engineer to relevant Goods.

Escalated Support:

- 5.8 If the Supplier's engineer is unable to resolve the Buyer's service support request this is to be escalated to a 3rd line engineering specialist and, if required, to the manufacturer to provide 'design level' support.

Resolution

- 5.9 The Supplier's engineers will aim to resolve faults within 2 hours of first attending the affected Buyer Site (all engineers will carry 'support' stock if travelling by car). A return visit will be arranged if a component is required and is not available to the Supplier's engineer.

- 5.10 In the event that the DAR or DAR PC requires off-site diagnosis and repair, or it is designated as beyond repair (i.e. the DAR is older than 7 years and has had two other faults in the previous 12 months or suffers a critical PC fault such as motherboard failure) the Supplier will offer the Buyer a loan DAR free of charge for up to a month and quote the Buyer for a replacement DAR.
- 5.11 To enable this service, each of the Supplier's engineers will always carry a loan DAR when travelling by car. If an individual engineer's loan DAR has already been allocated, then this service will not be offered (note: engineers work on a regional basis). It is important that the Buyer's purchase order is raised for replacement promptly when replacement is required in order that the loan DAR is returned to stock in readiness for other Buyer Sites when needed. It is agreed that any delay in the provision of purchase orders or issues agreeing the return of loan DARs to stock to be escalated to the Buyer's Contract Manager for resolution.

Warranty

- 5.12 The Supplier shall make good at the Supplier's own expense any defect in or damage to the Goods which develops within 12 months of completion of installation which is caused by:
- (a) defective design, materials or workmanship; or
 - (b) the negligence of the Supplier, the Supplier's Subcontractors or Supplier Staff.
- 5.13 The Supplier shall provide 12 months warranty on the Goods. Within the proposed purchase price of the Goods, the provision of on-site service support has been included (i.e. an upgrade from a return to base replacement warranty service) to accurately identify the fault and determine the correct resolution.

Maintenance Services and repairs

- 5.14 The Supplier is responsible for all costs, parts and labour, to maintain the operation of the Goods (excluding recording storage media which are supply only), and DARs supplied prior to this Contract, and that have a valid maintenance contract unless the DAR is deemed "beyond service life" under clause 5.10.
- 5.15 The Supplier can provide maintenance services for project **REDACTED** compliant audio equipment, but the specification of this service is yet to be defined.
- 5.16 Once a service has been completed, the Supplier shall attach a service label to the serviced Goods which will include, but is not limited to, service date, engineer, courtroom and courthouse. The Supplier shall update the service information, at least annually, on each service visit.
- 5.17 The Contract does not require PAT/electrical safety checks.

Preventative Maintenance Services

- 5.18 The Supplier shall undertake annual preventative maintenance checks and basic equipment servicing tasks throughout service life of DARs to maximise reliability and service life.
- 5.19 The Supplier's preventative maintenance checks shall include:

PC hardware

- (a) Ensure PC is in good working order with no signs of damage / excessive wear & tear;
- (b) Remove dust/debris from PC hardware;
- (c) Cosmetic cleaning of peripherals;

Audio and other equipment

- (a) Check all microphones are present and in good working order;

- (b) Test microphone capsule seating and all cables & connectors;
- (c) Test touchscreen(s), where installed, and recalibrate as required;

Recording

- (a) Complete test audio recording and playback tests and confirm audio quality is satisfactory;
- (b) Check CD archiving is being completed regularly. Report non-conformance in accordance with Schedule 11;
- (c) Delete archived legacy recordings to ensure recording space maintained.

6 Contract Staff - Security

- 6.1 Where Supplier Staff must attend the Buyer Site(s), Clauses 6.3 to 6.8 shall apply.
- 6.2 The Supplier shall ensure that all Supplier Staff have had BPSS identity checks. All the Supplier's engineers attending Buyer Sites will hold security clearance to Security Check (SC) level to enable unescorted access. The Buyer shall sponsor SC clearance and authorise access to the Supplier's engineers whose applications are being processed or provide escorts.
- 6.3 The Supplier shall be responsible for ensuring that only those Supplier Staff required to deliver the Goods and/or Services attend the Buyer Site(s). The Buyer reserves the right to:
 - (a) establish, by whatever means, the true identity of the Supplier Staff and of their baggage before granting them entry to Buyer Site(s);
 - (b) search Supplier Staff and their baggage before granting entry to Buyer Site(s);
 - (c) search Supplier Staff and their baggage when leaving Buyer Site(s);
 - (d) require baggage to be deposited whilst Supplier Staff are on Buyer Site(s).
- 6.4 Within one week of commencing work, the Supplier shall be required to provide, at their own expense, photo passes for all Supplier Staff which will include the relevant Supplier Staff signatures. Passes must always be worn by Supplier Staff visibly when on Buyer Site(s). In addition, the Supplier shall ensure that all Supplier Staff wear photo passes which carry both the name of the individual and the Supplier when on Buyer Site(s). The Supplier shall supply a list of specimen signatures if requested by the Buyer.
- 6.5 Failure to co-operate with and/or comply with the requirements of this paragraph 6 or any attempt by any of the Supplier Staff to gain entry to Buyer Site(s) when not holding SC level clearance shall be treated as a Default under the Contract.
- 6.6 The Buyer reserves the right to enquire, as it considers necessary, about any of the Supplier Staff. The Supplier's attention is drawn to Clause 7 of the Core Terms of the Contract (Supplier Staff).
- 6.7 Each of the Supplier Staff shall be briefed on organisational security procedures and the provisions of the Official Secrets Act – 1911-1989 and be required to comply with the regulations of the Official Secrets Act.
- 6.8 The Supplier shall ensure that its managers maintain the standards of security expected and brief Supplier Staff about the protection of Buyer Assets and processes under their control. In particular, Supplier Staff shall be able to identify potential difficulties or conflicts of interests among Supplier Staff and, where identified, report any concerns as soon as possible to the Buyer's Contract Manager.

Schedule 3 (Charges)

REDACTED

Schedule 4 (Rectification Plan)

Request for Rectification Plan			
Details of the Notifiable Default:	<i>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</i>		
Deadline for receiving the Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by Buyer:		Date:	
Supplier Rectification Plan			
Cause of the Notifiable Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Notifiable Default:	[add effect]		
Steps to be taken to rectification:	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Notifiable Default	[X] Working Days		
Steps taken to prevent recurrence of Notifiable Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	

Signed by the Supplier:		Date:	
Review of Rectification Plan Buyer			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

Schedule 5 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

No.	Date	Item(s)	Duration of Confidentiality
1	19/08/2024	Detailed price breakdown	2 years
2	19/08/2024	Supplier cost, overheads and profit data disclosed under Financial Transparency obligations	3 years
3	19/08/2024	Supplier digital recording process, applications specification, schematics and coding	6 years

Schedule 6 (TUPE)

- 1.1 The Supplier shall provide the Buyer, with information on staff employed to perform the Contract who, in the Supplier's or Buyer's reasonable opinion, may be subject to a transfer under the Transfer of Undertakings (Protection of Employment) Regulations ("TUPE") as follows:
 - 1.1.1 upon termination or at any time in the 12 months preceding expiry of the Contract ("Retender Period"), all information necessary for bidders to prepare their bids;
 - 1.1.2 after the Retender Period but before the date on which the replacement Contractor is contractually obliged to provide the Goods or Services ("Transition Period"), all information necessary to comply with TUPE and any then current Government guidance (including but not limited to the Cabinet Office Guidance on Staff Transfers in the Public Sector – Statement of Practice (January 2000) as amended from time to time); and
 - 1.1.3 this information shall be provided at the time and in the format reasonably requested by the Buyer and, in any event, not later than 15 working days after receiving such a request and at no cost to the Buyer.
- 1.2 The Supplier shall co-operate with any replacement supplier and provide it with as much information as it reasonably requires to ensure a smooth transition.
- 1.3 During the 12 months prior to expiry or from the date at which notice of termination has been received by the Supplier, the Supplier shall not change the staff it uses to perform the Contract, nor alter their terms and conditions of employment (including rates of pay) unless the Supplier has the Buyer's express prior written agreement which shall not be unreasonably withheld.
- 1.4 During the Transition Period, the Buyer, or such bidders as the Buyer nominates, shall be entitled to reasonable direct access to the Supplier's staff employed to perform the Contract. Such access shall be for the purpose of conducting group meetings or individual meetings as are reasonably required.
- 1.5 The Supplier shall procure any consents which may be required by the Data Protection Act 1998 and related legislation to comply with these provisions.
- 1.6 Any Non-Disclosure Agreement entered between the Supplier and bidders and/or a replacement supplier in respect of this Contract or the Transition Agreement shall be on substantially similar terms to the Confidentiality clause in this Contract.
- 1.7 Termination, or partial termination, or expiry in accordance with this Schedule shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.
- 1.8 The following provisions of the Contract shall survive the early termination or expiry of the Contract: Interpretation, Audit, Set Off, Warranties and Representations, Indemnities, Limitation of Liability, rights and obligations on termination, Confidentiality, Intellectual Property Rights, Jurisdiction and Governing Law, Dispute Resolution Procedure, and Rights of Third Parties.

Schedule 7 (Installation Works)

Please see Schedule 2.

Schedule 8 (Service Levels)

Part A: Service Levels

1. Service Levels

- 1.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 1.2 The Supplier shall send board packs to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 1.3 If the level of the performance of the supplier is likely to or fails to meet any Service Level Performance Measure, the supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its right, may:
 - 1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure from taking place or recurring;
 - 1.2.2 instruct the Supplier to comply with the Rectification Plan Process (Schedule 4);

Annex A to Part A: Service Levels Table

Reference:	SLA1
Description	A measure of the Suppliers achievement, of the requirement to deliver and install new DAR equipment within 30 days of a request.
Pass Criteria	Target: 95% (Good) 94.9% - 75% (requires improvement) 74.9% - 0% (inadequate)
Calculation:	Fulfilment made within 30 days ÷ total number of deliveries x 100
Source:	Board Pack (See Schedule 11)
Conditions:	<p>Large scale projects (i.e.. multi-court room or multiple units ordered): a phased installation programme will be agreed with Buyer's programme manager and a separate progress report will be issued to the Buyer's programme manager and the Buyer's Contract Manager</p> <p>Any purchase orders received by the Supplier after 5pm on any working day (Mon-Fri) is counted as having been received the following working day.</p> <p>Order confirmation will be sent to the Buyer.</p>
Exceptions:	Supply only goods (e.g. CDs) do not require installation Courtroom availability

Reference:	SLA2
Description	Preventative Maintenance Visit. Provide an annual preventative maintenance visit for each of the DAR recorders in accordance with the Specification (Schedule 2).
Pass Criteria	Target: 90% (Good) 89.9% - 70% (requires improvement) 69.9% - 0% (inadequate)
Calculation:	<p>Measured on annual basis (April – March), on a cumulative basis.</p> <p>Total number of preventative maintenance visits completed ÷ by the total number of DARs eligible for a Preventative maintenance, pro-rata'd for the number of months into the annual cycle.</p>
Source:	Board Pack (See Schedule 11)
Conditions:	Each DAR, that has been installed for more than 12 months, will have an annual preventative maintenance visit.
Exceptions:	Courtroom availability prevented access within required timescales.

Reference:	SLA3
Description	Service response. On-site support to be provided within six working hours of an incident being reported to the supplier.
Pass Criteria	Target: 90% (Good) 89.9% - 65% (requires improvement) 64.9% - 0% (inadequate)
Calculation:	Total number visits within 6 working hours ÷ Total visits complete x 100
Source:	Board Pack (See Schedule 11)
Conditions:	For the avoidance of doubt any notifications received by the Service Provider after 5pm on any working day (Mon-Fri) is counted as having been received the following working day.
Exceptions:	Courtroom availability prevented access within required timescales, or the site contact cannot be reached to agree access times

Reference:	SLA4
Description	Service resolution. The service request will be resolved within 2 working hours; <ul style="list-style-type: none"> a. from remote engineer response, providing user guidance or resolution via remote access (where available) b. on gaining access to the room in which the DAR is located.
Pass Criteria	Target: 90% (Good) 89.9% - 65% (requires improvement) 64.9% - 0% (inadequate)
Calculation:	Total number of requests resolved within 6 working hours ÷ Total Requests completed x 100
Source:	Board Pack (See Schedule 11)
Conditions:	For the avoidance of doubt any notifications received by the Service Provider after 5pm on any working day (Mon-Fri) is counted as having been received the following working day.
Exceptions:	If the engineer's loan DAR has been deployed elsewhere, but is required to provide resolution, then this incident will be excluded If the DAR is beyond repair and needs to be replaced

Part B: Performance Monitoring

1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Effective Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with a board pack in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 1.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 1.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 1.2.3 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 1.2.4 such other details as the Buyer may reasonably require from time to time.
- 1.3 The Parties shall initially attend meetings to discuss board packs ("**Performance Review Meetings**") on a Monthly basis. Supplier and Contract Manager to discuss flexibility in regards to frequency where required. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the board packs. The Performance Review Meetings shall:
 - 1.3.1 take place within one (1) week of the board pack being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 1.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier for any specified Service Period.

2. Satisfaction Surveys

The Buyer may request the Supplier undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables, primarily to be completed by end users. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in

accordance with this Contract.

Schedule 9 (Continuous Improvement)

1. Supplier's Obligations

- 1.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
 - 1.3.1 identifying the emergence of relevant new and evolving technologies;
 - 1.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
 - 1.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
 - 1.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Effective Date.
- 1.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 1.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 1.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer, unless otherwise agreed in writing.

- 1.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 1.5:
 - 1.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
 - 1.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 1.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 1.3.
- 1.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 1.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 1.12 At any time during the Contract Period of this Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

Schedule 10 (Price Review)

Volume and Price Review

REDACTED. Please see Schedule 3.

Schedule 11 (Contract Management)

1. Contract Management

- 1.1 The Supplier and the Buyer shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 1.2 The Parties shall ensure that appropriate resources are made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

2. Role of the Supplier Contract Manager

- 2.1 The Supplier Contract Manager shall be:
 - 2.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
 - 2.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
 - 2.1.3 able to cancel any delegation and recommence the position himself; and
 - 2.1.4 replaced only after the Buyer has received notification of the proposed change.
- 2.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to this Contract and it will be the Supplier Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 2.3 Receipt of communication from the Supplier Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under this Contract.

3. Contract Risk Management

- 3.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 3.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
 - 3.2.1 the identification and management of risks;
 - 3.2.2 the identification and management of issues; and
 - 3.2.3 monitoring and controlling Contract plans.
- 3.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 3.4 The Supplier will maintain a risk register of the risks relating to this Contract which the Buyer and the Supplier have identified.

Annex 1: Operational Boards

The Parties agree to operate the following boards at the frequencies set out below:

Performance Review Meeting	
Attendees	Supplier, HMCTS, CCMD
Frequency	Bi-Monthly
Purpose	To review the performance of the Services from an operational perspective (operational review) and contractual commitments and obligations of Supplier to the Buyer are being delivered including those in respect of the Service and financials (commercial and contract management review)
Standing Agenda	<p>Review of Board Pack and action points arising</p> <p>Operations Review</p> <p>Review the provision of the Services to ensure that they are being supplied in accordance with the Contract</p> <p>Review opportunities to improve the Services so to make more efficient and effective, resilient and reliable</p> <p>Review the performance of the Supplier against the SLAs and service user feedback (see Annex 2)</p> <p>Discuss and agree a procedure to deal with any external factors impacting the Services in any material respect</p> <p>Monitor any key risks and/or issues in relation to the Services</p> <p>Review and attempt to resolve any issue the Buyer may have in relation to the Services</p> <p>Review and attempt to resolve any operational issues in relation to the Services escalated by the other users</p> <p>Commercial Review</p> <p>Review HMCTS' use of the Services to ensure maximum operational effectiveness and value for money</p> <p>Review financial model information and any proposed changes to the model. Also review and discuss variances to the model</p> <p>Review demand levels to ensure service capacity at all times</p> <p>Review Contract to ensure it meets any evolving business needs based on any service discussions and any administrative procedures keeping the Contract up to date are being managed</p>

Performance Review Meeting	
	Review of any planned Contract Change

Annex 2: Management Information Reports

Board Pack	
Documentation to be presented, via Board Pack, in accordance with Schedule 8 but not limited to	SLA achievable data; Service response times Diagnostic and repair times Installations booked and completed Equipment ordered and delivered, inc. timescales Maintenance schedules inc. dates of services Asset Register Preventative Maintenance Schedule

Schedule 12 (Business Continuity and Disaster Recovery)

1. Definitions

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

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule,

2. BCDR Plan

- 2.1 At least forty (40) Working Days after the Effective Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
 - 2.1.2 the recovery of the Deliverables in the event of a Disaster.
- 2.2 The BCDR Plan shall be divided into three sections:
- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 2.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - 2.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. General Principles of the BCDR Plan (Section 1)

- 3.1 Section 1 of the BCDR Plan shall:
- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;

- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - (c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
 - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - (e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.

- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any Default by the Supplier of this Contract.

4. Business Continuity (Section 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
- 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5. Disaster Recovery (Section 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in

- respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
- 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 5.2.13 testing and management arrangements.

6. Review and changing the BCDR Plan

- 6.1 The Supplier shall review the BCDR Plan:
 - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
 - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

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

8. Invoking the BCDR Plan

In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

9. Circumstances beyond your control

The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

SCHEDULE 13 (Statutory Obligations & Corporate Social Responsibility)

1 What the Authority expects from the Supplier

- 1.1 His Majesty's Government's Supplier Code of Conduct (the "**Code**") sets out the standards and behaviours expected of suppliers who work with government. The Code can be found online at: [Supplier Code of Conduct - v3 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/621212/supplier-code-of-conduct-v3.pdf)
- 1.1 The Supplier shall, and shall procure that its Sub-Suppliers shall:
- a) comply with its legal obligations, in particular those in Part 1 of this Schedule, and meet the standards set out in the Code as a minimum; and
 - b) use reasonable endeavours to comply with the standards in Part 2 of this Schedule.

PART 1 - Statutory Obligations

2 Equality and Accessibility

- 2.1 The Supplier shall:
- (a) perform its obligations under the Contract in accordance with:
 - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
 - ii) the Authority's equality, diversity and inclusion policy as given to the Supplier from time to time; and
 - iii) any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law
 - (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

3 Modern Slavery

- 3.1 The Supplier shall:
- (a) not use, or allow Sub-Suppliers to use, forced, bonded or involuntary prison labour;
 - (b) not require any Staff to lodge deposits or identity papers with their employer;
 - (c) allow, and ensure that any Sub-Suppliers allow, Staff to leave their employer after reasonable notice;
 - (d) make reasonable enquiries to ensure that its Staff and Sub-Suppliers have not been convicted of slavery or human trafficking offences anywhere in the world;

- (e) have and maintain throughout the Term its own policies and procedures to ensure its compliance with the MSA and include in its Sub-Contracts anti-slavery and human trafficking provisions;
- (f) not use, or allow its Staff to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its Staff and Sub-Suppliers;
- (g) not use or allow to be used child or slave labour to be used by its Sub-Suppliers;
- (h) if either Party identifies any occurrence of modern slavery in connection with the Contract, comply with the rectification process set out in schedule 4;
- (i) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
- (j) maintain a complete set of records to trace the supply chain of all goods and services provided to the Authority in connection with the Contract;
- (k) report the discovery or suspicion of any slavery or trafficking by it or its Sub-Suppliers to the Authority, to the Modern Slavery Helpline and other relevant national or local law enforcement agencies; and
- (l) implement a system of training for its employees to ensure compliance with the MSA including highlighting to its employees the existence and contact details of the Modern Slavery Helpline.

3.2 The Supplier represents, warrants and undertakes throughout the Term that:

- (a) it has not been convicted of any slavery or human trafficking offences anywhere in the world; and
- (b) to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere in the world.

3.3 If the Supplier notifies the Authority pursuant to paragraph 3.1(i) of this Schedule, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.

3.4 If the Supplier is in Default under paragraphs 3.1 or 3.2 of this Schedule the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Sub-Supplier, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) terminate the Contract.

4 Income Security

4.1 The Supplier shall:

- (a) ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
- (b) provide all Staff with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
- (c) not make deductions from pay:
 - (i) as a disciplinary measure;
 - (ii) except where permitted by Law and the terms of the employment contract; and
 - (iii) without express permission of the person concerned
- (d) record all disciplinary measures taken against Staff.

5 Working Hours

5.1 The Supplier shall ensure that:

- (a) the working hours of Staff comply with the Law, and any collective agreements;
- (b) the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;
- (c) overtime is used responsibly, considering:
 - (i) the extent;
 - (ii) frequency; and
 - (iii) hours worked;
- (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.1 (e);
- (e) working hours do not exceed 60 hours in any seven-day period unless:
 - (i) it is allowed by Law;
 - (ii) it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;
 - (iii) appropriate safeguards are taken to protect the workers' health and safety; and
 - (iv) the Supplier can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;

- (f) all Supplier Staff are provided with at least:
 - (i) 1 day off in every 7-day period; or
 - (ii) where allowed by Law, 2 days off in every 14-day period.

6 Right to Work

6.1 The Supplier shall:

- (a) ensure that all Staff are employed on the condition that they are permitted to work in the UK; and
- (b) notify the Authority immediately if an employee is not permitted to work in the UK.

7 Health and Safety

7.1 The Supplier shall perform its obligations under the Contract in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's Health and Safety Policy while on the Authority's Premises.

7.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct Staff to adopt any necessary safety measures in order to manage the risk.

8 Welsh Language Requirements

8.1 The Supplier shall comply with the Welsh Language Act 1993 and the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Services.

9 Fraud and Bribery

9.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any Government Authority or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act.

9.2 The Supplier shall not during the Term:

- (a) commit a Prohibited Act; and/or

- (b) do or suffer anything to be done which would cause the Authority or any of its Staff to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

9.3 The Supplier shall, during the Term:

- (a) establish, maintain and enforce, and require that its Sub-Suppliers establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
- (b) have in place reasonable prevention measures (as defined in section 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;
- (c) keep appropriate records of its compliance with its obligations under paragraphs 9.3(a) 9.3(b) and make such records available to the Authority on request; and
- (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with section 47 of the Criminal Finances Act 2017.

9.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 9.1 and/or 9.2, or has reason to believe that it has or any of the Staff have:

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

9.5 If the Supplier notifies the Authority pursuant to paragraph 9.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.

9.6 If the Supplier is in Default under paragraphs 9.1 and/or 9.2, the Authority may by notice:

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

9.7 Any notice served by the Authority under paragraph 9.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

PART 2 - Corporate Social Responsibility

10 Zero Hours Contracts

- 10.1 Any reference to zero hours contracts, for the purposes of this Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.
- 10.2 When offering zero hours contracts, the Supplier shall consider and be clear in its communications with its employees and workers about:
- (a) whether an individual is an employee or worker and what statutory and other rights they have;
 - (b) the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
 - (c) how the individual's contract will terminate, for example, at the end of each work task or with notice given by either party.

11 Sustainability

- 11.1 The Supplier shall:
- (a) comply with the applicable Government Buying Standards;
 - (b) provide, from time to time, in a format reasonably required by the Authority, reports on the environmental effects of providing the Goods and Services;
 - (c) perform its obligations under the Contract in a way that:
 - (i) supports the Authority's achievement of the Greening Government Commitments;
 - (ii) conserves energy, water, wood, paper and other resources;
 - (iii) reduces waste and avoids the use of ozone depleting substances; and
 - (iv) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

Schedule 14 (Security)

Part A: Short Form Security Requirements

1. Definitions

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

"Breach of Security"	<p>the occurrence of:</p> <ul style="list-style-type: none">(a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or(b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract, <p>in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 2.1; and</p>
"Security Management Plan"	<p>the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.</p>

2. Complying with security requirements and updates to them

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

3. Security Standards

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security for its own system and any cloud services used which:
 - 3.2.1 is in accordance with the Law and this Contract;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data;
 - 3.2.4 where specified by the Buyer in accordance with Paragraph 2.1 complies with the Security Policy and the ICT Policy; and
 - 3.2.5 complies with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>. The Supplier must document how it and any cloud service providers they use comply with these principles, and provide this documentation upon request by the Buyer.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. Security Management Plan

4.1 Introduction

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

4.2 Content of the Security Management Plan

The Security Management Plan shall:

- 4.2.1 comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- 4.2.2 identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- 4.2.3 detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, information and data (including the Buyer's Confidential

Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;

- 4.2.4 be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 4.2.5 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- 4.2.6 set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 2.1; and
- 4.2.7 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.3 or of any change to the Security Management Plan in

accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

4.4 Amendment of the Security Management Plan

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- a. emerging changes in Good Industry Practice;
 - b. any change or proposed change to the Deliverables and/or associated processes;
 - c. where necessary in accordance with Paragraph 2.2, any change to the Security Policy;
 - d. any new perceived or changed security threats; and
 - e. any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
- a. suggested improvements to the effectiveness of the Security Management Plan;
 - b. updates to the risk assessments; and
 - c. suggested improvements in measuring the effectiveness of controls.
- 4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

5. Security breach

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:
- 5.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
- a. minimise the extent of actual or potential harm caused by any Breach of Security;
 - b. remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the

extent within its control against any such Breach of Security or attempted Breach of Security;

- c. prevent an equivalent breach in the future exploiting the same cause failure; and
- d. as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 2.1) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Schedule 15 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing this Contract).

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

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

Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

Schedule 16 (Insurance Requirements)

1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Effective Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
 - 1.2.1 maintained in accordance with Good Industry Practice;
 - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
 - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
 - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
 - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the

Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4. Evidence of insurance you must provide

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

5. Making sure you are insured to the required amount

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.
- 5.2 Where the Supplier intends to claim under any of the Insurances for any matters that are not related to the Deliverables and/or this Contract, the Supplier shall, where such claim is likely to result in the level of cover available under any of the Insurances being reduced below the minimum limit of indemnity specified in this Schedule, promptly notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule.

6. Cancelled Insurance

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

7. Insurance claims

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of this Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of £10,000 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The

Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX: REQUIRED INSURANCES

PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1. Insured

VP-AV

2. Interest

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person;
and

2.1.2 loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

3. Limit of indemnity

3.1 Not less than £10,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but £10,000,000 in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).

4. Territorial limits

United Kingdom

5. Period of insurance

From the date of this Contract for the period of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

6. Cover features and extensions

Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Supplier is legally liable.

7. Principal exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.

- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

8. Maximum deductible threshold

Not to exceed £500 for each and every third party property damage claim (personal injury claims to be paid in full).

PART B: UNITED KINGDOM COMPULSORY INSURANCES

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

PART C: ADDITIONAL INSURANCES

Property Damage Insurance / Goods in Transit Insurance	Where the Buyer requirement necessitates primary perils insurance for relevant physical property (e.g. Buyer physical property in the care, custody and control of the Supplier in delivering this Contract).
--	---

Schedule 17 (ICT Services)

1. Definitions

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

"Emergency Maintenance"	ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any COTS Software;
"Maintenance Schedule"	has the meaning given to it in Paragraph 8 of this Schedule;
"New Release"	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
"Operating Environment"	<p>means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <p>1.1. the Deliverables are (or are to be) provided; or</p> <p>1.2. the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or</p> <p>1.3. where any part of the Supplier System is situated;</p>
"Permitted Maintenance"	has the meaning given to it in Paragraph 8.2 of this Schedule;
"Quality Plans"	has the meaning given to it in Paragraph 6.1 of this Schedule;
"Sites"	has the meaning given to it in Schedule 1 (Definitions), and for the purposes of this Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;

2. When this Schedule should be used

- 2.1 This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

3. Buyer due diligence requirement

- 3.1 The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following:
 - 3.1.1 suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
 - 3.1.2 operating processes and procedures and the working methods of the Buyer;
 - 3.1.3 ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
 - 3.1.4 existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
- 3.2 The Supplier confirms that it has advised the Buyer in writing of:
 - 3.2.1 each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
 - 3.2.2 the actions needed to remedy each such unsuitable aspect; and
 - 3.2.3 a timetable for and the costs of those actions.

4. Licensed software warranty

- 4.1 The Supplier represents and warrants that:
 - 4.1.1 it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Buyer;
 - 4.1.2 all components of the Specially Written Software shall:
 - (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in Schedule 8 (Service Levels) and Documentation; and
 - (c) not infringe any IPR.

5. Provision of ICT Services

- 5.1 The Supplier shall:
 - 5.1.1 ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software

- or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or upgrade;
- 5.1.2 ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
- 5.1.3 ensure that the Supplier System will be free of all encumbrances;
- 5.1.4 ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
- 5.1.5 minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

6. Standards and Quality Requirements

- 6.1 The Supplier shall develop, in the timescales specified in the Award Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2 The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
- 6.3 Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4 The Supplier shall ensure that the Supplier Personnel shall at all times during the Contract Period:
 - 6.4.1 be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2 apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3 obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

7. ICT Audit

- 7.1 The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1 inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2 review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3 review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1 If specified by the Buyer in the Award Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance**")

Schedule") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.

- 8.2 Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3 The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

9. Malicious Software

- 9.1 The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 9.2 If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
- 9.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 9.2 shall be borne by the Parties as follows:
 - 9.3.1 by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
 - 9.3.2 by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

Schedule 18 (Key Supplier Staff)

1. Key Supplier Staff

- 1.1 The Annex 1 (Key Role) to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 1.4.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
 - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
 - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
 - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
 - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1: Key Roles

Key Role	Key Staff	Details
Relationship Manager	REDACTED	Project/Contract Manager
Technical Director	REDACTED	Technical Design Lead

Schedule 19 (Exit Management)

1. Definitions

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

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier, or a Key Subcontractor, in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier, or a Key Subcontractor, in connection with the Deliverables but which are also used by the Supplier, or Key Subcontractor, for other purposes;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 6.2.1 of this Schedule;
"Virtual Library"	the data repository hosted by the Supplier containing the accurate information about this

Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

2. Supplier must always be prepared for contract exit

- 2.1 The Supplier shall within thirty (30) days from the Effective Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall within thirty (30) days from the Effective Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:
 - 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
 - 2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs (consistent with Annex 1 of Schedule 20 (Intellectual Property) which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 12 (Business Continuity and Disaster Recovery) and operating procedures through which the Supplier provides the Deliverables,and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form.
- 2.3 The Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 6 (TUPE))
- 2.4 The Supplier shall:
 - 2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
 - 2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
- 2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Effective Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

3. Assisting re-competition for Deliverables

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

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

- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
 - 4.3.1 how the Exit Information is obtained;
 - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
 - 4.3.3 a detailed description of both the transfer and cessation processes, including a timetable;
 - 4.3.4 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
 - 4.3.5 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
 - 4.3.6 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
 - 4.3.7 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
 - 4.3.8 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
 - 4.3.9 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
 - 4.3.10 proposals for the disposal of any redundant Deliverables and materials;

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

5. Obligations when the contract is terminated

- 5.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 5.2 Upon termination or expiry the Supplier shall:
 - 5.2.1 cease to use the Government Data;
 - 5.2.2 vacate any Buyer Premises;
 - 5.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
 - 5.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
 - (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
 - (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
- 5.3 Upon partial termination, termination or expiry (as the case may be), 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 for statutory compliance purposes.

6. Assets, Sub-contracts and Software

- 6.1 Following notice of termination of this Contract, the Supplier shall not, without the Buyer's prior written consent:
 - 6.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
 - 6.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 6.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
 - 6.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
 - 6.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,the Buyer and/or the Replacement Supplier requires the continued use of; and
- 6.3 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
 - 6.3.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 6.3.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 6.4 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 6.5 The Buyer shall:
 - 6.5.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 6.5.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 6.6 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.

7. No charges

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

Schedule 20 (Intellectual Property Rights)

Part A: Intellectual Property Rights (no ICT Services)

Not Used

Part B: Intellectual Property Rights (ICT Services)

1. Intellectual Property Rights – General Provisions

- 1.1. Each Party keeps ownership of its own Existing IPR.
- 1.2. Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with the requirements of this Schedule 20 (Intellectual Property Rights), it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- 1.3. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.
- 1.4. Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.
- 1.5. Unless otherwise agreed in writing, the Supplier and the Buyer will record any obtained licences in the table at Annex 2 to this Schedule and keep this updated throughout the Contract Period
- 1.6. If the Supplier becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Buyer has not received the licences to Supplier Existing IPRs or Third Party IPRs required by Paragraphs 4 and 5, the Supplier must, within 10 Working Days notify the Buyer:
 - 1.6.1. the specific Intellectual Property Rights the Buyer has not received licences to; and
 - 1.6.2. the Deliverables affected.
- 1.7. For the avoidance of doubt:
 - 1.7.1. except as provided for in Paragraphs 5.3.2.2(c)(1) or 4.1.6.2 and 4.1.4, the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs 4 and 5;
 - 1.7.2. the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:
 - 1.7.2.1. Sections 55 and 56 of the Patents Act 1977;
 - 1.7.2.2. section 12 of the Registered Designs Act 1949; or
 - 1.7.2.3. sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

2. Ownership and delivery of IPR created under this Contract

- 2.1. Any New IPR and Specially Written Software is owned by the Supplier, including:
 - 2.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software and any software elements of the New IPR; and
 - 2.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR,

(together, the **Software Supporting Materials**).
- 2.2. Unless otherwise agreed in writing, the Supplier and the Buyer will record any Specially Written Software and New IPR in the table at Annex 1 to this Schedule and keep this updated throughout the Contract Period.

3. Licence of New IPR and Specially Written Software

- 3.1. the Supplier grants the Buyer a New IPR and Specially Written Software Licence on the terms set out in Paragraph 3.3 in respect of each Deliverable where:
 - 3.1.1. the New IPR or Specially Written Software is embedded in the Deliverable;
 - 3.1.2. the New IPR or Specially Written Software is necessary for the Buyer to use the Deliverable; or
 - 3.1.3. the New IPR or Specially Written Software is used to provide the Deliverable.
- 3.2. The categories of New IPR or Specially Written Software set out in Paragraph 3.1 are mutually exclusive.
- 3.3. The New IPR and Specially Written Software Licence granted by the Supplier to the Buyer is a, non-exclusive, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:
 - 3.3.1. in the case of New IPR or Specially Written Software embedded in a Deliverable or is used to provide the Deliverable:
 - 3.3.1.1. is sub-licensable;
 - 3.3.1.2. has no restriction on the identity of any transferee or sub-licensee;
 - 3.3.1.3. allows the Buyer and any transferee or sub-licensee to use, copy and adapt the New IPR or Specially Written Software for any of the purposes set out in Paragraph 3.4;
 - 3.3.2. in the case of New IPR or Specially Written Software that is necessary for the Buyer to receive or use the Deliverable:
 - 3.3.2.1. allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant New IPR or Specially Written Software for any of the purposes set out in Paragraph 3.4;

3.3.2.2. is transferrable to only:

- (a) a Crown Body;
- (b) any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or
- (c) a person or organisation that is not a direct competitor of the Supplier; and

3.3.2.3. is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:

- (a) enters into a direct arrangement with the Supplier in the form set out in Annex 3; or
- (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);

3.3.3. continues in effect following the expiry or earlier termination of this Contract; and

3.3.4. is subject to the restrictions that:

3.3.4.1. each transferee or sub-licensee either:

- (a) enters into a direct arrangement with the Supplier in the form set out in Annex 3; or
- (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

3.3.4.2. no sub-licence granted to the New IPR or Specially Written Software shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph.

3.4. For the purposes of Paragraphs 3.1 and 3.3, the relevant purposes are:

3.4.1. to allow the Buyer or any End User to receive and use the Deliverables; and

3.4.2. for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

3.5. Where the legal status of the Buyer changes, such that it ceases to be a Crown Body:

3.5.1. the New IPR and Specially Written Software Licence is unaffected; and

any successor body of the Buyer that is a Crown Body shall have the benefit of the New IPR and Specially Written Software Licence.

4. Use of Supplier Existing IPRs and Third Party IPRs

4.1. The Supplier must not:

4.1.1. embed Supplier Existing IPRs or Third Party IPRs in a Deliverable;

4.1.2. provide any Deliverable that requires Supplier Existing IPRs or Third Party IPRs to use that Deliverable its intended purpose; or

- 4.1.3. provide any Deliverable that is a customisation or adaptation of those Supplier Existing IPRs or Third Party IPRs,

unless one or more of the following conditions apply:

- 4.1.4. for any Supplier Existing IPRs or Third Party IPRs that are not COTS Software, the Buyer provides Approval after receiving full details of the Supplier Existing IPRs or Third Party IPRs and their relationship to the Deliverables;

- 4.1.5. in the case of Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software all the following conditions are met:

- 4.1.5.1. the Supplier has provided the Buyer with the applicable terms for the Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software (which must be at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available); and

- 4.1.5.2. the Buyer has not (in its absolute discretion) rejected those licence terms within 10 Working Days of the date on which they were provided to the Buyer;

- 4.1.6. in the case of Third Party IPRs that are not COTS Software, the Buyer provides approval under Paragraph 4.1.4 and one of the following conditions is met:

- 4.1.6.1. the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph 3.3, as if:

- (a) the term Third Party IPRs were substituted for the term Supplier Existing IPR; and
 - (b) the term “third party” were substituted for the term Supplier,

in each place they occur; or

- 4.1.6.2. if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 4.1.6.1, all the following conditions are met:

- (a) the Supplier has notified the Buyer in writing giving details of:
 - (1) what licence terms can be obtained from the relevant third party; and
 - (2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;
 - (b) the Buyer Approves the licence terms of one of those third parties; and
 - (c) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Buyer on those terms.

- 4.2. Where the Buyer has not rejected Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software, the Supplier must notify the Buyer within five (5) Working Days of becoming aware that any of that COTS Software will in the next thirty-six (36) months no longer be:

- 4.2.1. maintained or supported by the developer; or

4.2.2. made commercially available.

5. Licences in respect of Supplier Existing IPR that is not COTS Software

5.1. Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph 4, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 3.3 in respect of each Deliverable where:

5.1.1. the Supplier Existing IPR that is not COTS Software is embedded in the Deliverable;

5.1.2. the Supplier Existing IPR that is not COTS Software is necessary for the Buyer to use the Deliverable for any of the purposes set out in Paragraph 5.4; or

5.1.3. the Deliverable is a customisation or adaptation of Supplier Existing IPR that is not COTS Software.

5.2. The categories of Supplier Existing IPR that is not COTS Software set out in Paragraph 5.1 are mutually exclusive.

5.3. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:

5.3.1. in the case of Supplier Existing IPR that is not COTS Software embedded in a Deliverable:

5.3.1.1. has no restriction on the identity of any transferee or sub-licensee;

5.3.1.2. is sub-licensable for any of the purposes set out in Paragraph 5.4;

5.3.1.3. allows the Buyer and any transferee or sub-licensee to use, copy and adapt the Supplier Existing IPR that is not COTS Software for any of the purposes set out in Paragraph 5.4; and

5.3.1.4. is subject to the restriction that no sub-licence granted to the Supplier Existing IPR that is not COTS Software shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph;

5.3.2. in the case of Supplier Existing IPR that is not COTS Software that is necessary for the Buyer to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:

5.3.2.1. allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Existing IPRs that is not COTS Software for any of the purposes set out in Paragraph 5.4;

5.3.2.2. is transferrable to only:

(a) a Crown Body;

(b) any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or

(c) a person or organisation that is not a direct competitor of the Supplier and that transferee either:

- (1) enters into a direct arrangement with the Supplier in the form set out in Annex 3; or
- (2) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);

5.3.2.3. is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:

- (a) enters into a direct arrangement with the Supplier in the form set out in Annex 3; or
- (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

5.3.2.4. is subject to the restrictions that:

- (a) no sub-licence granted to the Supplier Existing IPR that is not COTS Software shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph; and
- (b) any sublicensee or transferee either:
 - (1) enters into a direct arrangement with the Supplier in the form set out in Annex 3; or
 - (2) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

5.3.2.5. expires at the later of:

- (a) the end of the Contract Period; or
- (b) the end of any Termination Assistance Period.

5.4. For the purposes of Paragraphs 5.1 and 5.3, the relevant purposes are:

- 5.4.1. to allow the Buyer or any End User to receive and use the Deliverables;
- 5.4.2. for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

6. Licences to COTS software

- 6.1. The Supplier must provide the Buyer with licences to Supplier Existing IPR and Third Party IPR that is, in each case, COTS software at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

7. Licences granted by the Buyer

7.1. Subject to Paragraph 8, the Buyer grants the Supplier a licence to the Buyer Existing IPR that:

- 7.1.1. is non-exclusive, royalty-free and non-transferable;
- 7.1.2. is sub-licensable to any Sub-contractor where

- 7.1.2.1. the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential); and
- 7.1.2.2. the sub-licence does not purport to provide the sub- licensee with any wider rights than those granted to the Supplier under this Paragraph
- 7.1.3. allows the Supplier and any sub- licensee to use, copy and adapt any Buyer Existing IPR for the purpose of:
 - 7.1.3.1. fulfilling its obligations under this Contract; and
 - 7.1.3.2. commercially exploiting the New IPR and Specially Written Software; and
- 7.1.4. unless otherwise agreed in accordance with Paragraph 8, terminates at the earlier of the End Date or date of termination of this Contract.

8. Buyer approval for Supplier to exploit Buyer Existing IPR

- 8.1. Before using Buyer Existing IPR for any purpose other than fulfilling its obligations under this Contract, the Supplier must seek the approval of the Buyer in accordance with the provisions of this Paragraph.
- 8.2. The Supplier must provide a proposal setting out:
 - 8.2.1. the purpose for which it proposes to use the New IPR or Specially Written Software;
 - 8.2.2. the activities the Supplier proposes to undertake with or in respect of the New IPR or Specially Written Software;
 - 8.2.3. such further information as the Buyer may reasonably require to properly consider the proposal.
- 8.3. The Buyer may only refuse the Buyer's proposal where it considers that if the Supplier were to implement the proposal it would harm:
 - 8.3.1. the Buyer's reputation; or
 - 8.3.2. the Buyer's interests.
- 8.4. Where the Buyer has not:
 - 8.4.1. approved or declined the proposal; or
 - 8.4.2. required further information,
 - within twenty (20) Working Days of the later of:
 - 8.4.3. the date the proposal was first provided to the Buyer; or
 - 8.4.4. the date on which further information was provided to the Buyer,

then the proposal is, for the purposes of this Contract, approved.

9. Provision of information on New IPR and Specially Written Software

9.1. The Buyer may, at any time, require the Supplier to provide information on:

- 9.1.1. the purposes, other than for the purposes of this Contract, for which the Supplier uses New IPR and Specially Written Software; and
- 9.1.2. the activities the Supplier undertakes, other than under this Contract, with or in respect of the New IPR and Specially Written Software.

9.2. The Supplier must provide the information required by the Buyer:

- 9.2.1. within twenty (20) Working Days of the date of the requirement; and
- 9.2.2. in the form and with the content specified by the Buyer.

ANNEX 1: NEW IPR AND SPECIALLY WRITTEN SOFTWARE

Name of New IPR	Details

Name of Specially Written Software	Details

ANNEX 2: Licences Obtained

Name of Licence	Details
REDACTED	REDACTED
REDACTED	REDACTED

ANNEX 3: FORM OF CONFIDENTIALITY UNDERTAKING

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT:

- (A) The secretary of state for the Ministry of Justice (the “**Buyer**”) and the Supplier are party to a contract dated 19/08/2024 (the “**Contract**”) for the provision by the Supplier for the supply of Court Audio Recording Equipment and Maintenance (see Schedule 2 (Specification) for full details) to the Buyer.
- (B) The Buyer wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Buyer pursuant to this Contract (the “**Sub-licence**”).
- (C) It is a requirement of this Contract that, before the Buyer grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Agreement to protect the Confidential Information of the Buyer.

IT IS AGREED as follows:

1 Interpretation

- 1.1 In this Agreement, unless the context otherwise requires:

“**Confidential Information**” means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Buyer to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
 - (i) the Supplier; or
 - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation

supplied by the Supplier to the Buyer pursuant to or in connection with the Sub-licence;

(c) other Information provided by the Buyer pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and

(d) Information derived from any of the above,

but not including any Information that:

(a) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Buyer;

(b) 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; or

(c) was independently developed without access to the Information;

“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); and

“Sub-licence”

has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

1.2.1 a reference to any gender includes a reference to other genders;

1.2.2 the singular includes the plural and vice versa;

1.2.3 the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;

1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;

1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and

1.2.6 references to Clauses are to clauses of this Agreement.

2 Confidentiality Obligations

2.1 In consideration of the Buyer entering into the Sub-licence, the Sub-licensee shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 2.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.7 upon the expiry or termination of the Sub-licence:
 - (a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - (b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and
 - (c) make no further use of any Confidential Information.

3 Permitted Disclosures

3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

- 3.1.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and
- 3.1.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
- 3.1.3 have agreed to terms similar to those in this Agreement.

3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.

- 3.3 Before making a disclosure pursuant to Clause 3.2, the Sub-licensee shall, if the circumstances permit:
- 3.3.1 notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
 - 3.3.2 ask the court or other public body to treat the Confidential Information as confidential.

4 General

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- 4.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
 - 4.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - 4.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.
- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub-licensee to the Supplier for any breach of this Agreement shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 4.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

5 Notices

5.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

5.2 Any Notice:

5.2.1 if to be given to the Supplier shall be sent to:

VP-AV Limited, Innovation House, Hopkinson Way, Andover, Hampshire, SP10 3UR

Attention: **REDACTED**, Technical Director

6 Governing law

6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties.

For and on behalf of VP-AV

Signature: _____

Date:

Name:

Position:

Schedule 21 (Cyber Essentials Scheme)

1. Definitions

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

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: https://www.gov.uk/government/publications/cyber-essentials-scheme-overview ;
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Award Form;
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. What Certification do you need

- 2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of Deliverables under this Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during this Contract Period of this Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.

- 2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data the Supplier shall deliver to the Buyer evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for Material Default and the consequences of termination in Clause 14.5.1 shall apply.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Certificate, at the equivalent level to that held by the Supplier. The Supplier cannot require the Subcontractor to commence the provision of Deliverables under the Sub-Contract until the Subcontractor has evidenced to the Supplier that it holds a valid Cyber Essentials Certificate.
- 2.6 The Supplier must manage, and must ensure that all Subcontractors manage, all end-user devices used by the Supplier and the Subcontractor on which Cyber Essentials Scheme Data is processed by ensuring those devices are within the scope of the current Cyber Essentials Certificates held by the Supplier and the Subcontractor, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Deliverables.
- 2.7 This Schedule shall survive termination or expiry of this Contract.

Schedule 22 (Processing Data)

- 1.1 The contact details of the Buyer's Data Protection Officer are: **REDACTED** or Data Protection Officer, 102 Petty France, London, SW1H 9AJ.
- 1.2 The contact details of the Supplier's Data Protection Officer are: **REDACTED** or Technical Director, Innovation House, Hopkinson Way, Andover, SP10 3UR.
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Subject matter of the Processing	The processing is needed to ensure that the Processor can effectively deliver the contract to provide installation and maintenance of equipment and storage of court recordings.
Duration of the Processing	For the duration of the Term. The Service Provider shall not use, retain or process any Personal Data beyond this date without Approval, save for when the Service Provider is obliged to retain Personal Data by Law.
Nature and purposes of the Processing	The nature of the Processing means any operation such as 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 data (whether or not by automated means) etc.
Type of Personal Data being Processed	Names of the user (staff), place of work e.g. court locations, email address, potentially sensitive and special categories of data shared in written or audio materials to be recorded, stored & translated Complaint data, either to the buyer or supplier, that may be shared in order to resolve such complaint Security clearance information, audit reports, extra ID documents where required e.g. physical copies of passports, certificates
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data	The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by this Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

Core Terms – Mid-tier

Contents

1. Definitions used in the contract	112
2. How the contract works	112
3. What needs to be delivered	113
4. Pricing and payments.....	115
5. The buyer's obligations to the supplier.....	116
6. Record keeping and reporting	117
7. Supplier staff	118
8. Supply chain	119
9. Rights and protection.....	120
10. Intellectual Property Rights (IPRs)	121
11. Rectifying issues	122
12. Escalating issues	122
13. Step-in rights	123
14. Ending the contract.....	124
15. How much you can be held responsible for	127
16. Obeying the law.....	128
17. Insurance.....	128
18. Data protection and security.....	128
19. What you must keep confidential.....	129
20. When you can share information	131
21. Invalid parts of the contract	132
22. No other terms apply	132
23. Other people's rights in this Contract	132
24. Circumstances beyond your control	132
25. Relationships created by the contract	133
26. Giving up contract rights	133
27. Transferring responsibilities	133
28. Changing the contract	134
29. How to communicate about the contract	135
30. Dealing with claims.....	136
31. Preventing fraud, bribery and corruption	136
32. Equality, diversity and human rights	138

33. Health and safety	138
34. Environment	139
35. Tax	139
36. Conflict of interest	140
37. Reporting a breach of the contract	140
38. Further Assurances	141
39. Resolving disputes	141
40. Which law applies	142

1. Definitions used in the contract

Interpret this Contract using Schedule 1 (Definitions).

2. How the contract works

2.1 If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:

- 2.1.1 make changes to the Award Form;
- 2.1.2 create new Schedules;
- 2.1.3 exclude optional template Schedules; and
- 2.1.4 use Special Terms in the Award Form to add or change terms.

2.2 The Contract:

- 2.2.1 is between the Supplier and the Buyer; and
- 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.

2.3 The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.

2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:

- 2.4.1 the Buyer's requirements for the Deliverables;
- 2.4.2 the Buyer's operating processes and working methods; and
- 2.4.3 the ownership and fitness for purpose of the Buyer Assets,

and it has advised the Buyer in writing of:

- 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
- 2.4.5 the actions needed to remedy each such unsuitable aspect; and
- 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

and such actions, timetable and costs are fully reflected in this Contract.

2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

2.5.1 verify the accuracy of the Due Diligence Information; and

2.5.2 properly perform its own adequate checks.

2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.

2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the Tender Response and this Contract;
- (b) using reasonable skill and care;
- (c) using Good Industry Practice;
- (d) using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- (e) on the dates agreed; and
- (f) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- (a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- (b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;

- (c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- (d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- (e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

3.2 Goods clauses

- 3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2 The Supplier transfers ownership of the Goods on payment for those Goods.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.10 The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer

suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

3.3 Services clauses

- 3.3.1 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.
- 3.3.2 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.
- 3.3.3 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.
- 3.3.4 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.5 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.
- 3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

4. Pricing and payments

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.

4.2 All Charges:

- 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and

- 4.2.2 include all costs connected with the Supply of Deliverables.
- 4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.
- 4.4 A Supplier invoice is only valid if it:
 - 4.4.1 includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
 - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

5. The buyer's obligations to the supplier

- 5.1 If Supplier Non-Performance arises from a Buyer Cause:
 - 5.1.1 the Buyer cannot terminate this Contract under Clause 14.4.1;
 - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
 - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
 - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables, unless unpaid.
- 5.2 Clause 5.1 only applies if the Supplier:
 - 5.2.1 gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
 - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and

5.2.3 mitigated the impact of the Buyer Cause.

6. Record keeping and reporting

6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.

6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:

6.3.1 on or before the Effective Date;

6.3.2 at the end of each Contract Year; and

6.3.3 within six (6) Months of the end of the Contract Period,

6.3.4 and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.

6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:

6.4.1 Supplier's currently incurred or forecast future Costs; and

6.4.2 forecast Charges for the remainder of this Contract,

6.4.3 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.

6.5 The Buyer or an Auditor can Audit the Supplier.

6.6 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:

6.6.1 complies with the Supplier's operating procedures; and

6.6.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.

6.7 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:

- 6.7.1 all information within the permitted scope of the Audit;
 - 6.7.2 any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
 - 6.7.3 the Supplier Staff.
- 6.8 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
- 6.9.1 correcting any identified Default;
 - 6.9.2 rectifying any error identified in a Financial Report; and
 - 6.9.3 repaying any Charges that the Buyer has overpaid.
- 6.10 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- 6.10.1 tell the Buyer and give reasons;
 - 6.10.2 propose corrective action; and
 - 6.10.3 provide a deadline for completing the corrective action.
- 6.11 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

7. Supplier staff

- 7.1 The Supplier Staff involved in the performance of this Contract must:
- 7.1.1 be appropriately trained and qualified;
 - 7.1.2 be vetted using Good Industry Practice and the Security Policy (is used); and
 - 7.1.3 comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.

- 7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

8. Supply chain

8.1 Appointing Subcontractors

- 8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:
- (a) manage Subcontractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Contract; and
 - (c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

8.2 Mandatory provisions in Sub-Contracts

- 8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:
- (a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
 - (b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
 - (c) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - (d) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
 - (e) allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

8.3 When Sub-Contracts can be ended

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- (d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- (e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

8.4 Ongoing responsibility of the Supplier

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

9. Rights and protection

9.1 The Supplier warrants and represents that:

- 9.1.1 it has full capacity and authority to enter into and to perform this Contract;
- 9.1.2 this Contract is entered into by its authorised representative;
- 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
- 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;
- 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;
- 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;
- 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and

9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.

9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.

9.3 The Supplier indemnifies the Buyer against each of the following:

9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and

9.3.2 non-payment by the Supplier of any tax or National Insurance.

9.4 All claims indemnified under this Contract must use Clause 30.

9.5 The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.

9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.

9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

10. Intellectual Property Rights (IPRs)

10.1 The Parties agree that the terms set out in Schedule 20 (Intellectual Property Rights) shall apply to this Contract.

10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:

10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or

10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.

10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the

Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.5.1 shall apply.

11. Rectifying issues

11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.

11.2 When the Buyer receives a requested Rectification Plan it can either:

11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or

11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:

11.3.1 will give reasonable grounds for its decision; and

11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

12. Escalating issues

12.1 If the Supplier fails to:

12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and

12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days,

either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

- 12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

13. Step-in rights

- 13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:

13.1.1 whether it will be taking action itself or with the assistance of a third party;

13.1.2 what Required Action the Buyer will take during the Step-In Process;

13.1.3 when the Required Action will begin and how long it will continue for;

13.1.4 whether the Buyer will require access to the Sites; and

13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.

- 13.2 For as long as the Required Action is taking place:

13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;

13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and

13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.

- 13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.

- 13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.

13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:

13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or

13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

14. Ending the contract

14.1 The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.

14.2 The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.

14.3 Ending the contract without a reason

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause 14.6.3 applies.

14.4 When the Buyer can end this Contract

14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 14.5.1 shall apply:

- (a) there's a Supplier Insolvency Event;
- (b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
- (c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- (d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- (e) there's any Material Default of this Contract;

- (f) there's any Material Default of any Joint Controller Agreement relating to this Contract;
- (g) there's a Default of Clauses 2.8, 12, 31 or Schedule 17 (ICT Services) (where applicable);
- (h) the performance of the Supplier causes a Critical Service Level Failure to occur;
- (i) there's a consistent repeated failure to meet the Service Levels in Schedule 8 (Service Levels);
- (j) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- (k) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- (l) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- (m) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- (n) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 6 (TUPE).

14.4.2 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5 **What happens if the contract ends**

14.5.1 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3 or Schedule 6 (TUPE) all of the following apply:

- (a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

- (g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

14.5.2 If either Party terminates this Contract under Clause 24.3:

- (a) each party must cover its own Losses; and
- (b) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5.3 The following Clauses survive the termination or expiry of this Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 14.5, 14.6.3, 15, 18, 19, 20, 21, 22, 23, 35.3.2, 39, 40, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 6 (TUPE), Schedule 19 (Exit Management)), Schedule 20 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

14.6 When the Supplier (and the Buyer) can end the contract

14.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

14.6.2 The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.

14.6.3 Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.6.1 or 27.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if this Contract had not been terminated; and
- (c) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.7 Partially ending and suspending the contract

14.7.1 Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.

14.7.2 The Buyer can only partially terminate or suspend this Contract if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.

14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 14.3.

14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

15. How much you can be held responsible for?

15.1 Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.

15.2 Neither Party is liable to the other for:

15.2.1 any indirect Losses; and/or

15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:

15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and

15.3.3 any liability that cannot be excluded or limited by Law.

15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 7.5, 9.3.2, 10.2, 35.3.2 or Schedule 6 (TUPE) of this Contract.

15.5 In spite of Clause 15.1, The Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Schedule 6 (TUPE) of this Contract.

15.6 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.

15.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.

15.8 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:

15.8.1 Deductions; and

15.8.2 any items specified in Clause 15.4.

15.9 If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

16. Obeying the law

16.1 The Supplier shall comply with the provisions of:

16.1.1 the Official Secrets Acts 1911 to 1989; and

16.1.2 section 182 of the Finance Act 1989.

16.2 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.

16.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

17. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances.

18. Data protection and security

18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Law

18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon reasonable request.

18.4 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices

used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.

18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.

18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and

18.6.2 restore the Government Data itself or using a third party.

18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is at fault.

18.8 The Supplier:

18.8.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;

18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;

18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;

18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and

18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

19. What you must keep confidential

- 19.1 Each Party must:
- 19.1.1 keep all Confidential Information it receives confidential and secure;
 - 19.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and
 - 19.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- 19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:
- 19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
 - 19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
 - 19.2.3 if the information was given to it by a third party without obligation of confidentiality;
 - 19.2.4 if the information was in the public domain at the time of the disclosure;
 - 19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
 - 19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
 - 19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
 - 19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality

obligations set out in this Contract by the persons to whom disclosure has been made.

19.4 The Buyer may disclose Confidential Information in any of the following cases:

19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;

19.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;

19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

19.4.4 where requested by Parliament;

19.4.5 under Clauses 4.6 and 20; and

19.4.6 on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive) and Clause 13 (Step-in rights).

19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.

19.6 Transparency Information and any information which is exempt from disclosure by Clause 20 is not Confidential Information.

19.7 The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

20. When you can share information

20.1 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.

20.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

20.2.1 publish the Transparency Information; and

20.2.2 comply with any Request for Information.

20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

21. Invalid parts of the contract

If any provision or part provision of this Contract 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 Contract.

22. No other terms apply

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

23. Other people's rights in this Contract

23.1 The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 6 (TUPE) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 19 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").

23.2 Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

23.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

23.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

24. Circumstances beyond your control

24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:

24.1.1 provides a Force Majeure Notice to the other Party; and

24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.

24.3 Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

25. Relationships created by the contract

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

26. Giving up contract rights

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

27. Transferring responsibilities

27.1 The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.

27.2 Subject to Schedule (Key Subcontractors) being used, the Supplier cannot sub-contract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;

- 27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 27.2.3 the proposed Subcontractor employs unfit persons.
- 27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5 The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.
- 27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
 - 27.7.1 their name;
 - 27.7.2 the scope of their appointment;
 - 27.7.3 the duration of their appointment; and
 - 27.7.4 a copy of the Sub-Contract.

28. Changing the contract

- 28.1 Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2 The Supplier must provide an Impact Assessment either:
 - 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
 - 28.2.2 within the time limits included in a Variation Form requested by the Buyer.
- 28.3 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
 - 28.3.1 agree that this Contract continues without the Variation; and

28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).

28.4 The Buyer is not required to accept a Variation request made by the Supplier.

28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:

28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or

28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.

28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

28.7 If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

28.7.2 of how it has affected the Supplier's costs.

28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

29. How to communicate about the contract

29.1 All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

29.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

29.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

30. Dealing with claims

30.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.

30.2 At the Indemnifier's cost the Beneficiary must both:

30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

30.2.2 give the Indemnifier reasonable assistance with the claim if requested.

30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.

30.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and

30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

31. Preventing fraud, bribery and corruption

31.1 The Supplier must not during the Contract Period:

31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);

31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

31.2 The Supplier must during the Contract Period:

31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;

31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and

31.2.3 if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

31.3 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:

31.3.1 been investigated or prosecuted for an alleged Prohibited Act;

31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;

31.3.3 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and

31.3.4 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.

31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:

31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and

31.5.2 immediately terminate this agreement in accordance with Clause 14.4.1 and the consequences of termination in Clauses 14.5.1 shall apply.

31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:

31.6.1 Prohibited Act;

31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and

31.6.3 action it has decided to take.

32. Equality, diversity and human rights

32.1 The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:

32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and

32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Contract.

33. Health and safety

33.1 The Supplier must perform its obligations meeting the requirements of:

33.1.1 all applicable Law regarding health and safety; and

33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

33.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're

aware of at the Buyer Premises that relate to the performance of this Contract.

34. Environment

- 34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

35. Tax

- 35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.
- 35.2 Where the Charges payable under this Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
 - 35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - 35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:
 - 35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
 - 35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and

35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

36. Conflict of interest

36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.

36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 14.5.1(b) to 14.5.1(g) shall apply.

37. Reporting a breach of the contract

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:

37.1.1 breach of Law;

37.1.2 Default of Clause 16.1; and

37.1.3 Default of Clauses 31 to 36.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

38. Further Assurances

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

39. Resolving disputes

39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.

39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.

39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

39.3.1 determine the Dispute;

39.3.2 grant interim remedies; and

39.3.3 grant any other provisional or protective relief.

39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must

do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.

39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

40. Which law applies

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.