

Award Form

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

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| 1. | Buyer | Department for Environment, Food & Rural Affairs (DEFRA) (the Buyer). Its offices are on: Seacole Building, 2 Marsham Street, London, SW1P 4DF |
| 2. | Supplier | Name: Sentinel Marine Limited Address: [REDACTED] [REDACTED] [REDACTED] Registration number: [REDACTED] SID4GOV ID: [Insert SID4GOV ID if you have one] |
| 3. | Contract | <p>This Contract between the Buyer and the Supplier is for the supply of Deliverables, being the provision of one or more fully crewed Offshore Patrol Vessel(s) (OPV) to allow the MMO to undertake its duties to gather intelligence on observed fishing activity, deter illegal fishing activity, and to deploy MMO inspection teams to board and inspect fishing vessels at sea. The role of the OPV may also include supporting the Buyer in other monitoring, compliance or enforcement activities that fall within the remit of its regulatory functions - see Schedule 2 (Specification) for full details.</p> <p>This opportunity is advertised in this Contract Notice in Find A Tender, reference 2024-450236 (FTS Contract Notice).</p> |

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| 4. | Contract reference | C26813 |
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| 5. | Buyer Cause | Any material breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier. |
| 6. | Collaborative working principles | The Collaborative Working Principles do not apply to this Contract. See Clause 3.1.3 for further details. |
| 7. | Financial Transparency Objectives | The Financial Transparency Objectives apply to this Contract. See Clause 6.3 for further details. |
| 8. | Start Date | 1 st November 2024 |
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| 9. | Expiry Date | 31 st October 2026 |
| 10. | Extension Period | Further periods of 12 months, with no more than 3 consecutive extension periods. Extension exercised where the Buyer gives the Supplier no less than [3 Months'] written notice before this Contract expires |
| 11. | Ending this Contract without a reason | <p>The Authority reserves the right to invoke break clauses at six-month periods to reduce the number of vessels on charter throughout the duration of the contract (including any extension periods). A minimum of one months' notice will be provided in writing should this option need to be exercised.</p> <p>The Buyer shall be able to terminate this Contract in accordance with Clause 14.3.</p> |
| 12. | Incorporated Terms | <p>The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:</p> <p>(a) This Award Form</p> <p>(b) Any Special Terms (see Section 14 (Special Terms) in this Award Form)</p> <p>(c) Schedule 31 (Buyer Specific Terms)</p> <p>(d) Core Terms</p> |
| | (together these documents form the "this Contract") | <p>(e) Schedule 36 (Intellectual Property Rights)</p> |

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| | | <p>(f) Schedule 1 (Definitions)</p> <p>(g) Schedule 6 (Transparency Reports)</p> <p>(h) Schedule 20 (Processing Data)</p> <p>(i) The following Schedules (in equal order of precedence):</p> <p>a. Schedule 2 (Specification)</p> <p>b. Schedule 3 (Charges)</p> <p>c. Schedule 4 (Tender)</p> <p>d. Schedule 5 (Commercially Sensitive Information)</p> <p>e. Schedule 7 (Staff Transfer), Part E only</p> <p>f. Schedule 10 (Service Levels)</p> <p>g. Schedule 13 (Contract Management)</p> <p>h. Schedule 14 (Business Continuity and Disaster Recovery)</p> <p>i. Schedule 16 (Security)</p> <p>j. Schedule 21 (Variation Form)</p> <p>k. Schedule 23 (Guarantee)</p> <p>l. Schedule 24 (Financial Difficulties)</p> <p>m. Schedule 25 (Rectification Plan)</p> <p>n. Schedule 26 (Sustainability)</p> <p>o. Schedule 27 (Key Subcontractors)</p> <p>p. Schedule 28 (ICT Services)</p> <p>q. Schedule 29 (Key Supplier Staff)</p> <p>r. Schedule 30 (Exit Management)</p> <p>s. Schedule 32 (Background Checks)</p> |
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| | | <p>(j) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above.</p> |
| | <p>Special Terms</p> | <p>Special Term 1</p> <p>The following provision is included as a new clause 3.1.4;</p> <p>3.1.4 The Supplier shall comply with its policy on seeking to improve vessel efficiency as set out in its tender response at Schedule 4.</p> |
| | | <p>Special Term 2</p> <p>The following provision is included as a new clause 3.4:</p> <p>3.4 Implementation clauses</p> <p>3.4.1 The Supplier shall meet with the Buyer within 1 week of the Start Date. The purpose of such meeting shall be:</p> <p>3.4.1.1 to discuss the ways of working between the Buyer and the Supplier throughout the lifetime of the Contract;</p> <p>3.4.1.2 for the Buyer and Supplier to agree the process of reporting in crewing schedules and providing information to determine the operational location of vessels by the Supplier; and</p> <p>3.4.1.3 any other relevant business as determined by the Buyer.</p> <p>Special Term 3</p> <p>Clause 7 of the Core Terms is disapplied in favour of Paragraph 7 of the terms in Schedule 31.</p> <p>Special Term 4 –</p> <p>Clause 17 of the Core Terms is disapplied in favour of the insurance provisions in Schedule 31.</p> <p>Special Term 5</p> |

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| | | <p>Clause 24 of the Core Terms is disapplied in favour of the provisions contained at paragraph 32 of Part II, Paragraph 34 of Schedule 31.</p> <p>Special Term 6 – Clauses 33.1, 33.2, and 33.3 are disapplied.</p> <p>Special Term 7 – The following provisions are included as new clauses:</p> <p>41. Waiver</p> <p>41.1 The failure of either Party to insist upon strict performance of any provision of this Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Contract.</p> <p>41.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 29.</p> <p>41.3 A waiver of any right or remedy arising from a breach of this Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Contract.</p> <p>42. Rights of the Third Parties</p> <p>42.1 Except to the extent that this Contract expressly confers rights of enforcement on a Contracting Body (other than the Buyer) a person who is not a Party to this Contract shall have no right to enforce any of its provisions, including those which, expressly or by implication, confer a benefit on such person, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.</p> <p>43. Severability</p> <p>43.1 If any provision of this Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Contract</p> |
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| | | <p>shall continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision eliminated.</p> <p>44. Remedies Cumulative</p> <p>44.1 Except as expressly provided in this Contract all remedies available to either Party for breach of this Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.</p> <p>45. Entire Agreement</p> <p>45.1 This Contract including its Schedules, constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with therein. This Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraud or fraudulent misrepresentation.</p> <p>46. Counterparts</p> <p>46.1 This Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument. –</p> |
| | | [Special Term 2 -] |
| | | [Special Term 3 -] |
| 13. | Buyer's Environmental Policy | <div data-bbox="576 1760 622 1812" data-label="Image"> </div> <p>6.8267_DEFRA_Sustainability_Strategy_WE - Page 18</p> <p>Greening government commitments 2021 to 2025 - GOV.UK (www.gov.uk) – Sections A and D</p> |

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| | | Environmental Improvement Plan 2023 - GOV.UK (www.gov.uk) – Goal 7 |
| 14. | Social Value Commitment | The Supplier agrees, in providing the Deliverables and performing its obligations under this Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and report on the Social Value KPIs as required by Schedule 10 (Service Levels) |
| 15. | Buyer's Security Requirements and Security and ICT Policy | [Guidance: see the separate Guidance Document about when to use optional Schedule 16 (Security), and when Part A or Part B is most appropriate] Security Requirements: as set out in Schedule 16 (Security). |
| 16. | Charges | Details in Schedule 3 (Charges) |
| 17. | Estimated Year 1 Charges | £6,380,200 |
| 18. | Reimbursable expenses | Supplier to be re-imbursed by buyer (at cost) for any fuel taken onboard the vessels during the duration of contract |

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| 19. | Payment method | BACS transfer on receipt of valid invoice |
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| 20. | Service Levels | <p>Service Levels shall be monitored in accordance with Schedule 10 (Service Levels)</p> <p>A Critical Service Level Failure is:</p> <ul style="list-style-type: none"> • Where Service Level 3 is rated as Below Expectations • Where for Service Levels 1, 2, or 4, the Supplier achieves a Below Expectations rating 5 or more times in a rolling 6 month period. This can be for one Service Level, or a combination of 2 or 3 Services Levels |
| 21. | Liability | <p>In accordance with Clause 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 [the greater of £5 million or 150% of the Estimated Yearly Charges</p> <p>In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, being £10 million</p> |

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| 22. | Cyber Essentials Certification | Not required |
| 23. | Progress Meetings and Progress Reports | <p>The Supplier shall attend Progress Meetings with the Buyer every month</p> <p>The Supplier shall provide the Buyer with Progress Reports every month</p> |
| 24. | Guarantor | <p>The Supplier's performance will be guaranteed by [REDACTED] and has entered into a guarantee using the form in Schedule 23 (Guarantee)]</p> |
| 25. | Virtual Library | In accordance with Paragraph 2.2. of Schedule 30 (Exit Management) |
| 26. | Supplier's Contract Manager | <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> |

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| 27. | Supplier Authorised Representative | <div>██████████</div> <div>██████████</div> <div>██</div> <div>██████████</div> |
| 28. | Supplier Compliance Officer | <div>██████████</div> <div>██████████</div> <div>████████████████████████████████████</div> <div>██████████</div> |
| 29. | Supplier Data Protection Officer | <div>██████████</div> <div>████████████</div> <div>████████████████████████████████████</div> <div>████████████</div> |
| 30. | Supplier Marketing Contact | <div>██████████</div> <div>████████████</div> <div>████████████████████████████████████</div> <div>██████████</div> |
| 31. | Key Subcontractors | <div>██████</div> |

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| 32. | Buyer Authorised Representative | <div data-bbox="507 342 699 387" style="background-color: black; height: 20px; width: 120px;"></div> <div data-bbox="507 398 826 443" style="background-color: black; height: 20px; width: 200px;"></div> |
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For and on behalf of the Supplier:

For and on behalf of the Buyer:

Core Terms – Mid-tier

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1. Definitions used in the contract

- 1.1 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,
 - 2.4.4 and it has advised the Buyer in writing of:
 - 2.4.5 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;
 - 2.4.6 the actions needed to remedy each such unsuitable aspect; and
 - 2.4.7 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,
 - 2.4.8 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:
 - (g) 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";
 - (h) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;

- (i) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- (j) 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
- (k) 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 Delivery or payment for those Goods, whichever is earlier.
- 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 indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.

- 3.2.11 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 What needs to be delivered. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.12 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 Late Delivery of the Services will be a Default of this Contract.
- 3.3.2 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.
- 3.3.3 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.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 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.
- 3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.8 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 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable)

Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply::

- 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.
- 5.2 Clause If Supplier Non-Performance arises from a Buyer Cause: 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:

- (l) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
- (m) 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:
- (n) 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;
- (o) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- (p) 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:

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

8.4 Competitive terms

8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the

Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

- 8.4.2 If the Buyer uses Clause If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items. then the Charges must be reduced by an agreed amount by using the Variation Procedure.

8.5 Ongoing responsibility of the Supplier

- 8.5.1 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 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. and The Supplier warrants and represents that: 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 Dealing with claims.
- 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 36 (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:
 - 10.4 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
 - 10.5 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.6 If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:; 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: 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:
- 11.3 reject the Rectification Plan or revised Rectification Plan giving reasons; or
- 11.4 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.
- 11.5 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:
- 11.6 will give reasonable grounds for its decision; and
- 11.7 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:

- 12.2 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 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. or Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer::; and
- 12.3 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.
- 12.4 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.
- 12.5 If the Supplier is in Default of any of its obligations under this Clause Escalating issues, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply: 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply. and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply as if the contract were terminated under Clause 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:.

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 **Error! Not a valid bookmark self-reference.** and setting out:
- 13.2 whether it will be taking action itself or with the assistance of a third party;
- 13.3 what Required Action the Buyer will take during the Step-In Process;
- 13.4 when the Required Action will begin and how long it will continue for;

- 13.5 whether the Buyer will require access to the Sites; and
- 13.6 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- 13.7 For as long as the Required Action is taking place:
- 13.8 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
- 13.9 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
- 13.10 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.11 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.
- 13.12 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.
- 13.13 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause Step-in rights, 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:
- 13.14 limbs (f) or (g) of the definition of a Step-In Trigger Event; or
- 13.15 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 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 **Error! Not a valid bookmark self-reference.** and setting out: 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 Ending the contract 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

14.3.1 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 Where the Buyer terminates this Contract under Clause Ending the contract without a reason or the Supplier terminates this Contract under Clause 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. or The Supplier can terminate this Contract novated under Clause 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. to a private sector body that is experiencing an Insolvency Event.: applies.

14.4 When the Buyer can end this Contract

14.5 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:

- (v) there's a Supplier Insolvency Event;
- (w) 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;
- (x) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- (y) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- (z) there's any Material Default of this Contract;
- (aa) there's any Material Default of any Joint Controller Agreement relating to this Contract;

- (bb) there's a Default of Clauses 2.8, Escalating issues, Preventing fraud, bribery and corruption or Schedule 28 (ICT Services) (where applicable);
 - (cc) the performance of the Supplier causes a Critical Service Level Failure to occur;
 - (dd) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
 - (ee) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
 - (ff) 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;
 - (gg) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
 - (hh) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
 - (ii) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).
- 14.6 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 The Buyer's payment obligations under the terminated Contract stop immediately.) to 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.) apply.
- 14.7 What happens if the contract ends
- 14.8 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to

Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply: 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply. and If the Supplier is in Default of any of its obligations under this Clause Escalating issues, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply: If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply. and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply as if the contract were terminated under Clause 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- (jj) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- (kk) The Buyer's payment obligations under the terminated Contract stop immediately.
- (ll) Accumulated rights of the Parties are not affected.

- (mm) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
 - (nn) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
 - (oo) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
 - (pp) 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.
- 14.9 If either Party terminates this Contract under Clause 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.:
- (qq) each party must cover its own Losses; and
 - (rr) Clauses The Buyer's payment obligations under the terminated Contract stop immediately.) to 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.) apply.
- 14.10 The following Clauses survive the termination or expiry of this Contract: The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs., Pricing and payments, Record keeping and reporting, 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., 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., Intellectual Property Rights (IPRs), What happens if the contract ends, Where the Buyer terminates this Contract under Clause Ending the contract without a reason or the Supplier terminates this Contract under Clause 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. or The Supplier can terminate this Contract novated under

Clause 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. to a private sector body that is experiencing an Insolvency Event.; How much you can be held responsible for, Data protection and security, What you must keep confidential, When you can share information, Invalid parts of the contract, No other terms apply, Other people's rights in , 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., Resolving disputes, Which law applies, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

- 14.11 When the Supplier (and the Buyer) can end the contract
- 14.12 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.
- 14.13 The Supplier also has the right to terminate this Contract in accordance with Clauses 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. and The Supplier can terminate this Contract novated under Clause 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. to a private sector body that is experiencing an Insolvency Event..
- 14.14 Where the Buyer terminates this Contract under Clause Ending the contract without a reason or the Supplier terminates this Contract under Clause 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. or The Supplier can terminate this Contract novated under Clause 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. to a private sector body that is experiencing an Insolvency Event.:

- (ss) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- (tt) 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
- (uu) Clauses The Buyer's payment obligations under the terminated Contract stop immediately.) to 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.) apply.

14.15 Partially ending and suspending the contract

14.16 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.

14.17 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.

14.18 The Parties must agree any necessary Variation required by this Clause Partially ending and suspending the contract using the Variation Procedure, but the Supplier may not either:

- (vv) reject the Variation; or
- (ww) increase the Charges, except where the right to partial termination is under Clause Ending the contract without a reason.

14.19 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause Partially ending and suspending the contract.

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 the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.

15.2 Neither Party is liable to the other for:

15.3 any indirect Losses; and/or

- 15.4 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 15.5 In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., neither Party limits or excludes any of the following:
 - 15.6 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
 - 15.7 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
 - 15.8 any liability that cannot be excluded or limited by Law.
- 15.9 In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., the Supplier does not limit or exclude its liability for any indemnity given under Clauses 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., 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., non-payment by the Supplier of any tax or National Insurance., 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., 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. or Schedule 7 (Staff Transfer) of this Contract.
- 15.10 In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., The Buyer does not limit or exclude its liability for any indemnity given under Clause Supplier staff or Schedule 7 (Staff Transfer) of this Contract.
- 15.11 In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., but subject to

Clauses Neither Party is liable to the other for: and In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., neither Party limits or excludes any of the following: the Supplier's total aggregate liability in each Contract Year under Clause indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause Data protection and security or any Data Protection Legislation. is no more than the Data Protection Liability Cap.

- 15.12 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.
- 15.13 When calculating the Supplier's liability under Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form. the following items will not be taken into consideration:
- 15.14 Deductions; and
- 15.15 any items specified in Clause In spite of Clause Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form., the Supplier does not limit or exclude its liability for any indemnity given under Clauses 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., 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., non-payment by the Supplier of any tax or National Insurance., 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., 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. or Schedule 7 (Staff Transfer) of this Contract..

- 15.16 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 Schedule 26 (Sustainability).
- 16.2 The Supplier shall comply with the provisions of:
- 16.3 the Official Secrets Acts 1911 to 1989; and
- 16.4 section 182 of the Finance Act 1989.
- 16.5 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.
- 16.6 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause The Supplier shall comply with the provisions of Schedule 26 (Sustainability). and Clauses Preventing fraud, bribery and corruption to Conflict of interest.

17. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

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 Schedule 20 (Processing Data).
- 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:
- 18.7 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
- 18.8 restore the Government Data itself or using a third party.
- 18.9 The Supplier must pay each Party's reasonable costs of complying with Clause If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both: unless the Buyer is at fault.
- 18.10 The Supplier:
- 18.11 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;
- 18.12 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- 18.13 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;
- 18.14 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
- 18.15 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause Data protection and security or any Data Protection Legislation.

19. What you must keep confidential

- 19.1 Each Party must:
- 19.2 keep all Confidential Information it receives confidential and secure;
- 19.3 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
- 19.4 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- 19.5 In spite of Clause Each Party must:, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:
 - 19.6 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;
 - 19.7 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
 - 19.8 if the information was given to it by a third party without obligation of confidentiality;
 - 19.9 if the information was in the public domain at the time of the disclosure;
 - 19.10 if the information was independently developed without access to the Disclosing Party's Confidential Information;
 - 19.11 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
 - 19.12 on a confidential basis, to its professional advisers on a need-to-know basis; and
 - 19.13 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.
- 19.14 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.
- 19.15 The Buyer may disclose Confidential Information in any of the following cases:

- 19.16 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- 19.17 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;
- 19.18 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- 19.19 where requested by Parliament;
- 19.20 under Clauses 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. and When you can share information; and
- 19.21 on a confidential basis under the audit rights in Clauses The Buyer or an Auditor can Audit the Supplier. to The Supplier must comply with the Buyer's reasonable instructions following an Audit, including: (inclusive), Clause Step-in rights (Step-in rights), Schedule 7 and Schedule 30 (if used).
- 19.22 For the purposes of Clauses In spite of Clause Each Party must:, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances: to The Buyer may disclose Confidential Information in any of the following cases: references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause What you must keep confidential.
- 19.23 Transparency Information and any information which is exempt from disclosure by Clause When you can share information is not Confidential Information.
- 19.24 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:
- 20.3 publish the Transparency Information; and

- 20.4 comply with any Request for Information.
- 20.5 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 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

21. Invalid parts of the contract

- 21.1 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 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (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 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 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (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**")., 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 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 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (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**"). 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:
- 24.2 provides a Force Majeure Notice to the other Party; and
- 24.3 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.4 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.
- 24.5 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 27 (Key Subcontractors), 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:
 - 27.3 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 27.4 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 27.5 the proposed Subcontractor employs unfit persons.
- 27.6 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.
- 27.7 When the Buyer uses its rights under Clause 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. the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.8 The Supplier can terminate this Contract novated under Clause 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. to a private sector body that is experiencing an Insolvency Event.
- 27.9 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

- 27.10 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:
- 27.11 their name;
- 27.12 the scope of their appointment;
- 27.13 the duration of their appointment; and
- 27.14 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:
- 28.3 with the Variation Form, where the Supplier requests the Variation; and
- 28.4 within the time limits included in a Variation Form requested by the Buyer.
- 28.5 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
- 28.6 agree that this Contract continues without the Variation; and
- 28.7 refer the Dispute to be resolved using Clause Resolving disputes (Resolving Disputes).
- 28.8 The Buyer is not required to accept a Variation request made by the Supplier.
- 28.9 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
- 28.10 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
- 28.11 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.
- 28.12 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.
- 28.13 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:

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

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

28.16 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 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. to The Buyer is not required to accept a Variation request made by the Supplier..

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:

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

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

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

30.6 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.

- 30.7 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 30.8 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 30.9 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:
 - 30.10 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
 - 30.11 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:
 - 31.2 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
 - 31.3 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.
- 31.4 The Supplier must during the Contract Period:
 - 31.5 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;
 - 31.6 keep full records to show it has complied with its obligations under this Clause Preventing fraud, bribery and corruption and give copies to the Buyer on request; and
 - 31.7 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 Preventing fraud, bribery and corruption, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- 31.8 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses The Supplier must not during the Contract Period: or has any reason to think that it, or any of the Supplier Staff, have either:
 - 31.9 been investigated or prosecuted for an alleged Prohibited Act;

- 31.10 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;
- 31.11 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and
- 31.12 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.
- 31.13 If the Supplier notifies the Buyer as required by Clause The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses The Supplier must not during the Contract Period: or has any reason to think that it, or any of the Supplier Staff, have either:, 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.
- 31.14 If the Supplier is in Default under Clause The Supplier must not during the Contract Period: the Buyer may:
- 31.15 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
- 31.16 immediately terminate this agreement in accordance with Clause 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply: and the consequences of termination in Clauses Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:, If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the

Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply. and If the Supplier is in Default of any of its obligations under this Clause Escalating issues, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., If the Buyer requires that the Supplier procures a licence in accordance with Clause obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or or to modify or replace an item pursuant to Clause replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables., 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 Where the Buyer terminates this Contract under Clauses 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply: 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply. and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply as if the contract were terminated under Clause 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 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply:., Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply: shall apply.

- 31.17 In any notice the Supplier gives under Clause If the Supplier notifies the Buyer as required by Clause The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses The Supplier must not during the Contract Period: or has any reason to think that it, or any of the Supplier Staff, have either:., 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.
it must specify the:

- 31.18 Prohibited Act;
- 31.19 identity of the Party who it thinks has committed the Prohibited Act; and
- 31.20 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:
- 32.2 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- 32.3 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 32.4 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:
- 33.2 all applicable Law regarding health and safety; and
- 33.3 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 33.4 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:
 - 35.3 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - 35.4 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.5 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:
 - 35.6 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
 - 35.7 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.
- 35.8 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:
 - 35.9 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 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, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

- 35.10 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;
- 35.11 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 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 or confirms that the Worker is not complying with those requirements; and
- 35.12 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 The Buyer's payment obligations under the terminated Contract stop immediately. to 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. 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:
- 37.2 breach of Law;
- 37.3 Default of Clause The Supplier shall comply with the provisions of Schedule 26 (Sustainability).; and

- 37.4 Default of Clauses Preventing fraud, bribery and corruption to Conflict of interest.
- 37.5 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected: 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 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. to The Supplier cannot suspend the performance of this Contract during any Dispute..
- 39.3 Unless the Buyer refers the Dispute to arbitration using Clause 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 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., 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 **Error! Not**

a valid bookmark self-reference.., the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- 39.4 determine the Dispute;
- 39.5 grant interim remedies; and
- 39.6 grant any other provisional or protective relief.
- 39.7 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.
- 39.8 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 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., 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 **Error! Not a valid bookmark self-reference..**
- 39.9 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.

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;

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

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| "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; |
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| "Additional FDE Group Member" | means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties); |
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| "Affected Party" | the party seeking to claim relief in respect of a Force Majeure Event; |
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| "Affiliates" | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time; |
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| "Allowable Assumptions" | means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges); |
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| "Annex" | extra information which supports a Schedule; |
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| "Approval" | the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly; |
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| "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; |
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| "Audit" | the Buyer's right to: <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); |
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- (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 and/or Schedule 26 (Sustainability), 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;

"Beneficiary" a Party having (or claiming to have) the benefit of an indemnity under this Contract;

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

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| "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; |
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| "Buyer Authorised Representative" | the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form; |
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| "Buyer Cause" | has the meaning given to it in the Award Form; |
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| "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; |
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| "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"

- (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);
 - (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
- information derived from any of the above;
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"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;

"Claim"

any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;

"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:

- (a) Start Date; or
- (b) the Effective Date,

until the End Date;

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| "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; |
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| "Contract Year" | a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof; |
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| "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; |
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| "Controller" | has the meaning given to it in the UK GDPR or the EU GDPR as the context requires; |
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"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"

the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:

(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including:

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- (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 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; below); and

- (ix) reasonable recruitment costs, as agreed with the Buyer;

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- (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 the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: or 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; 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 12 (Benchmarking) 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;

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| "Critical Service Level Failure" | has the meaning given to it in the Award Form; |
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| "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; |
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| "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); |
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| "CRTPA" | the Contract Rights of Third Parties Act 1999; |
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| "Data Loss Event" | any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data |
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in breach of this Agreement, including any Personal Data Breach.

"Data Protection Impact Assessment"

an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;

"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;

"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"

any of the following:

- (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 8 (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;

"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:

- (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;

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| "Due Diligence Information" | any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date; |
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| "Effective Date" | the date on which the final Party has signed this Contract; |
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| "EIR" | the Environmental Information Regulations 2004; |
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| "Employment Regulations" | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced; |
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| "End Date" | the earlier of: |
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| | (a) the Expiry Date as extended by the Buyer under Clause 14.2; or |
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- (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;

"Escalation Meeting" means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;

"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"

means for the purposes of calculating each Party's annual liability under Clause 15.1:

- (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);

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| "Exit Plan" | has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan); |
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| "Expiry Date" | the date of the end of this Contract as stated in the Award Form; |
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| "Extension Period" | such period or periods beyond which the Initial Period may be extended, specified in the Award Form; |
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| "FDE Group" | the Supplier and any Additional FDE Group Member; |
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| "Financial Distress Event" | The occurrence of one or more the following events: |
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- (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

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- 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:
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- (x) 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;
- (xi) 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;
- (xii) non-payment by any FDE Group entity of any financial indebtedness;
- (xiii) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
- (xiv) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
- (xv) 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

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- (j) any [one] of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any

of the FDE Group entities failing to meet the required Financial Target Threshold;

"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"

any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:

- (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;

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- (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:

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- (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"**

- (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;
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**"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"

(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:

- (i) are supplied to the Supplier by or on behalf of the Buyer; and/or
 - (ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or
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(b) any Personal Data for which the Buyer is Controller;

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| "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 ; |
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| "Guarantor" | the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract; |
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| "Halifax Abuse Principle" | the principle explained in the CJEU Case C-255/02 Halifax and others; |
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| "HMRC" | His Majesty's Revenue and Customs; |
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| "ICT Environment" | the Buyer System and the Supplier System; |
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| "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 |
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to the Supplier), as updated from time to time in accordance with the Variation Procedure;

"Impact Assessment"

an assessment of the impact of a Variation request by the Buyer completed in good faith, including:

- (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;

"Implementation Plan"

the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;

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| "Incorporated Terms" | the contractual terms applicable to this Contract specified in the Award Form; |
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| "Indemnifier" | a Party from whom an indemnity is sought under this Contract; |
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| "Independent Controller" | a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data; |
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| "Indexation" | the adjustment of an amount or sum in accordance with this Contract; |
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| "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; |
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"Initial Period"

the initial term of this Contract specified in the Award Form;

"Insolvency Event"

with respect to any person, means:

(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:

(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:

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- (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;

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- (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
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- (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;
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"Installation Works"

all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with this Contract;

**"Intellectual
Property Rights"
or "IPR"**

- (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;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at 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; that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction;

**"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 36 (Intellectual

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| | 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 Controller Agreement" | the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data); |
| "Joint Control" | where two (2) or more Controllers jointly determine the purposes and means of Processing; |
| "Joint Controllers" | has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires; |

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| "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 29 (Key Supplier Staff); |
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| "Key Sub-Contract" | each Sub-Contract with a Key Subcontractor; |
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| "Key Subcontractor" | any Subcontractor: |
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- (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,

and the Supplier shall list all such Key Subcontractors in the Award Form;

"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 single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)

"Marketing Contact"

shall be the person identified in the Award Form;

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| "Milestone" | an event or task described in the Implementation Plan; |
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| "Milestone Date" | the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved; |
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| "Month" | a calendar month and "Monthly" shall be interpreted accordingly; |
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| "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); |
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| "New IPR" | <ul style="list-style-type: none">(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(b) IPR in or arising as a result of the performance of the Supplier's obligations |
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under this Contract and all updates and amendments to the same;

but shall not include the Supplier's Existing IPR or Specially Written Software;

"New IPR Item"

means a deliverable, document, product or other item within which New IPR subsists;

"Notifiable Default"

means:

- (a) the Supplier commits a Material Default; and/or
 - (b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;
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"Object Code"

software and/or data in machine-readable complied object code form;

**"Occasion of Tax
Non –
Compliance"**

where:

- (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:
 - (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle 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
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- (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 the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: of the definition of "Costs";

"Parent Undertaking"

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

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| "Parliament" | takes its natural meaning as interpreted by Law; |
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| "Party" | the Buyer or the Supplier and "Parties" shall mean both of them where the context permits; |
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| "Personal Data" | has the meaning given to it in the UK GDPR or the EU GDPR as the context requires; |
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| "Personal Data Breach" | has the meaning given to it in the UK GDPR or the EU GDPR as the context requires; |
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| "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 ; |
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| "Processing" | has the meaning given to it in the UK GDPR or the EU GDPR as the context requires; |
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| "Processor" | has the meaning given to it in the UK GDPR or the EU GDPR as the context requires; |
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| "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; |
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| "Progress Meeting" | a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative; |
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| "Progress Report" | a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates; |
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"Prohibited Acts"

(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:

- (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:

- (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 committing any offence: 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 16 (Security);

"Public Sector Body "

means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;

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| "Recall" | a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance; |
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| "Recipient Party" | the Party which receives or obtains directly or indirectly Confidential Information; |
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| "Rectification Plan" | <p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none">(a) full details of the Notifiable Default that has occurred, including a root cause analysis;(b) the actual or anticipated effect of the Notifiable Default; and(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable); |
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| "Rectification Plan Process" | the process set out in Clause 11; |
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"Regulations"

the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);

"Reimbursable Expenses"

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:

- (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;

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| "Relevant Tax Authority" | HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established; |
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| "Reminder Notice" | a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time; |
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| "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; |
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| "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; |
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| "Request For Information" | a request for information or an apparent request relating to this Contract for the provision of the |
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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 22 (Insurance Requirements);

"Satisfaction Certificate"

the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;

"Schedules"

any attachment to this Contract which contains important information specific to each aspect of buying and selling;

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| "Security Management Plan" | the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable); |
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| "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; |
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| "Serious Fraud Office" | the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time; |
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| "Service Credits" | any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels; |
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| "Service Levels" | any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 10 (Service Levels) is used in this |
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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" any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:

- (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 set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);

"Social Value KPIs" the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);

"Social Value Report" the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used;

"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 36
(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;
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| "Start Date" | the date specified on the Award Form; |
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| "Step-In Process" | the process set out in Clause 13; |
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| "Step-In Trigger Event" | <p>means:</p> <ul style="list-style-type: none">(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 |
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- (i) a need by the Buyer to take action to discharge a statutory duty;

"Step-Out Plan" means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under this Contract following the completion of the Step-In Process;

"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:

- (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);

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| "Subcontractor" | any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person; |
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| "Subprocessor" | any third Party appointed to process Personal Data on behalf of the Processor related to this Contract; |
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| "Subsidiary Undertaking" | has the meaning set out in section 1162 of the Companies Act 2006; |
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| "Supplier" | the person, firm or company identified in the Award Form; |
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| "Supplier Assets" | all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets; |
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**"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 36 (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 36 (Intellectual Property Rights) but excluding Buyer Software;

"Supplier Non-Performance"

where the Supplier has failed to:

- (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"

- (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 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; 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 and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract; 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;

**"Supply Chain
Information
Report
Template"**

the document at Annex 1 of Schedule 18 (Supply Chain Visibility);

**"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;

"Tender Response"

the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);

"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 as such period may be extended pursuant to Paragraph 5.2 of Schedule 30 (Exit Management);

"Termination Assistance Notice"

has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);

"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 Issue"

any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in this Contract;

"Test Plan"

a plan:

- (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 36 (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 –

- (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;

**"Transparency
Reports"**

the information relating to the Deliverables and performance pursuant to this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);

"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 21 (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;

"Verification Period" has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);

"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)

This Schedule sets out what the Buyer wants.

For all Deliverables, the Supplier must help the Buyer comply with any specific applicable Standards of the Buyer.

PART A: THE SERVICES

The purpose of this document is to outline the technical specification for the charter of vessel(s) charters by Defra and the Marine Management Organisation (MMO) for the purpose of offshore fisheries enforcement within the English portion of the UK EEZ.

1. Definitions

For the purposes of this paper, the following defined terms shall have the following meanings:

| TERM | MEANING |
|---------|---|
| “AIS” | means Automatic Identification System. |
| “EEZ” | Exclusive Economic Zone. |
| “ECDIS” | Electronic Chart Display and Information System |
| “MCA” | means the Maritime and Coastguard Agency. |
| “MMO” | means the Marine Management Organisation. |
| “OGD” | means Other Government Departments (incl. the UK Border Force, Maritime & Coastguard Agency (Coastguard), Environment Agency, Home Office (incl. Police Authorities & English Police Forces), Ministry of Defence and Royal Navy. |
| “OPV” | means Offshore Patrol Vessel |
| “RHIB” | means Rigid Hulled Inflatable Boat. |
| “VHF” | means Very High Frequency. |
| “VMS” | means Vessel Monitoring System - Fisheries regulations require fishing vessels over twelve (12) metres in length carry a satellite transponder. The data is transmitted to the UK fisheries monitoring centres (FMCs) who use the data for control and compliance purposes. |
| “JMSC” | Joint Maritime Security Centre |
| “UAV” | Unmanned aerial vehicle |

2. Services

The Provider shall provide to the Authority, Offshore Patrol Vessel(s) in accordance with the technical requirements set out in paragraph 3 below.

3. Technical Requirements - Outline of Vessel Operation

In broad terms the role of an Offshore Patrol Vessel (OPV) is to provide a robust, enduring capability to act as a source of intelligence on observed fishing activity, a deterrent to illegal fishing activity and to deploy MMO inspection teams to board and inspect fishing vessels at sea. The role of the OPV may also include supporting the Authority in other monitoring, compliance or enforcement activities that fall within the remit of its regulatory functions.

On a day-to-day basis an OPV will be expected to sail from an English port and spend a period of up to 4 weeks at sea with an embarked team of MMO Boarding Officers. The OPV will primarily patrol areas of the UK EEZ and territorial seas (predominantly within English waters) including inshore waters according to MMO directions and tasking instructions. Fishing vessels will be located and an MMO boarding team will need to be transferred to the fishing vessels for inspection, this will be carried out through the launching of a boarding boat from the OPV with the MMO team safely delivered to a boarding ladder deployed on the side of the fishing vessel to be inspected. Inspections may be carried out throughout English waters and during both daylight and night-time hours. Inspections may need to be

conducted at long range (over the visible horizon) on occasion. A routine fishing vessel inspection will typically take around 1 – 5 hours to complete, with the OPV expected to standby in reasonable proximity to the fishing vessel during this period before the boarding team are disembarked via the boarding boat. The OPV must have the ability to manoeuvre in close proximity to other vessels as well as other associated maritime hazards such as land and shallow areas. The ability to use multiple engines or alternative propulsion systems would be advantageous.

If infringements are detected inspections may take longer and the OPV may be required to escort fishing vessels to port for detention. The role of coordinating the inspections themselves will be entirely undertaken by the MMO team in conversation with MMO FMC Operations.

The UK EEZ zonal maps and sea areas are as shown in Part B of this document.

The OPV may also be required to patrol specified areas for the purpose of information gathering and deterrence, with details of fishing vessel movements recorded by the embarked MMO team in the form of a sightings log. The OPV shall be equipped with an ECDIS system which can record vessel movements for the purposes of evidence gathering.

The MMO team aboard the OPV will require food and accommodation as well as access to communications. They would not be expected to act as crew or get involved in the general running of the vessel. Transfer of MMO personnel to and from the shore may occasionally be required mid-patrol via the boarding boats.

Port visits at the start and end of each patrol can be agreed between the MMO and the Provider to ensure that each other's requirements are met.

The entire operation, navigation, and management of the Vessel shall be in the exclusive control and command of the Owners, their Master, Officers and Crew.

3.1 OPV Endurance, Availability and Tasking

| Ref. | Requirement |
|------|--|
| 1 | During the charter period the vessel shall be exclusively at the MMO's task and shall patrol and conduct fishing vessel boardings within an area as specified by the MMO's FMC Operations team. |
| 2 | The OPV shall be able to operate for up to 28 days without the need for port visits for fuel, water or provisions. |
| 3 | Port calls shall be scheduled in line with operational requirements and in mutual agreement between the MMO and the vessel operator. |
| 4 | The operational contact point for the duration of any charter shall be, unless otherwise stated, the MMOs FMC Operations team Principal Marine Officer. Contact with other maritime operating centres may be required by agreement. These may include but are not limited to the MCA, Border Force, Royal Navy or Joint Maritime Security Centre (JMSC). |

3.2 OPV Capability

| Ref. | Requirement |
|------|---|
| 1 | The OPV shall be seaworthy in all respects, certificated for intended use and lawfully able to operate and capable of operating safely at sea in all areas of the UK EEZ and territorial seas during any sea state likely to be encountered. |
| 2 | <p>The OPV shall have a cruising speed of at least 12 knots and a maximum speed of at least 16 knots. Both achievable for at least 24hrs in sea conditions up to and including force 6 on the Beaufort scale. A max speed of greater than 16 knots would be desirable.</p> <p>The speed of the OPV shall be adjusted to the operational requirements as determined by the MMO representative. While on passage and on duty the vessel shall mainly operate at the vessel's normal cruising speed or less. The OPV should be able to transit between locations in an economical and sustainable manner with due consideration being given to fuel consumption and costs. However, during operational activities transit and interventions at high speed or slow speed may be necessary. During boarding operations, the OPV may be required to hold position for periods of several hours.</p> |
| 3 | The OPV must carry at least two boarding boats capable of deploying and recovering a boarding team of up to 4 boarding officers to/from a fishing vessel in at least sea state 4. At least one of these boats shall be a RHIB. More than one boarding boat is required as a means of recovering the other boarding boat and crew in the event of an accident or mechanical failure. An inventory of essential parts, sufficient fuels and lubricants for regular deployment must be held with the vessel to ensure operation of the boarding boat during extended periods at sea of more than 14 days. The OPV sea boats must be coded and meet the requirements of MCA workboat code 3 |
| 4 | Boarding boats shall be equipped with an active transponder system allowing the boats to be always tracked from the main vessel and in all weathers. |
| 5 | All boarding boats shall be equipped with navigation and communications equipment ensuring independent operability. To include AIS transponder, depth sounder, VHF radio and chart plotter. |
| 6 | The OPV and boarding boats shall be capable of undertaking boarding operations safely at night or in low light conditions. The OPV should have sufficient ancillary deck lighting and search lights fitted to allow the safe transfer of MMO boarding officers between vessels at night or in low light conditions. |
| 7 | The OPV shall be capable of conducting long range boardings (outside of line-of-sight / over visible horizon) using a boarding boat. At least one of the boarding boats on board shall be capable of operation at least 10nm from the mothership in day or night at all times of the year. |

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| 8 | The OPV shall be appropriately insured and registered and shall comply with all relevant MCA requirements for commercial vessels. The Authority shall be named as insured party. |
| 9 | All OPVs including boarding boats shall be required to fly a fisheries pennant when on fisheries patrol duties. The OPV mothership and both boarding boats shall be branded with lettering to identify the vessel as a fishery patrol vessel operated by the MMO (details of the required branding are available). Any works of this nature would be done in agreement with the vessel operator. |
| 10 | The OPV shall have the capability to safely haul and redeploy (reshoot) static fishing gear including pots and static nets using a net/pot hauler which the OPV crew shall be able to operate. |
| 12 | The OPV shall have the capability to launch and recover a quadcopter RPAS (UAVs) (surveillance drone) to be operated by MMO staff. Deck space with at least 25 square metre clearance should be available on the ship for launch and recovery of UAVs. |

3.3 OPV Accommodation

| Ref. | Requirement |
|------|--|
| 1 | Suitable single accommodation (bed and board) shall be provided for at least 4 MMO boarding officers aboard the OPV. Accommodation for greater than 4 officers would be desirable. |
| 2 | Three meals a day shall be provided for MMO officers to include separate vegetarian / vegan options, fresh fruit and vegetables and allergy-free options when required (requirements to be notified before the patrol). |
| 3 | Adequate desk-space shall be provided for at least 4 MMO officers to carry out desk-based work such as statement and report writing. The area shall be capable of working in during heavy weather and printing and scanning facilities shall be available. |
| 4 | The OPV must have a dedicated crew changing room / cleansing station and storage space for MMO inspection equipment and PPE (Personal Protective Equipment). |
| 5 | The OPV shall be capable of temporarily supporting injured MMO personnel and shall be equipped with two winch zones to facilitate the airlift of casualties to shore. |
| 6 | A comfortable communal conference / breakout area shall be provided with comfortable seating and conference facilities for at least 10 people for briefings and rest / relaxation periods. |

3.4 OPV Communications

| Ref. | Requirement |
|------|-------------|
|------|-------------|

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| 1 | <p>The OPV shall be equipped with VHF and Sat-phone communications, which are made available to MMO staff. The ship should be equipped with a cellular telephone, the ship must be able to provide 4g LTE (Long term evolution) which will be used in coastal areas and in port. The ship should have the ability to contact partners any time via satellite phone.</p> <p>The OPV must have broadband internet accessible from working and recreational areas. Hardwired and WIFI will be required throughout the working area and should be made available in recreational and accommodation spaces. Satellite services should be available at greater than 95% of the time with expected download (Mbps) of 40-220 and expected upload (mbps) 8-25 (Mbps) This system is expected to have unrestricted allowances for MMO officers.</p> |
| 2 | <p>DEPTH RECORDING – The ship should be equipped with a depth sounder. Maximum reliable soundings to be ~300 meters Deep Sea soundings would be desirable using such systems as an EM122 Multibeam, or the 3.5/12 kHz echosounder system.</p> <p>DIRECTION FINDING EQUIPMENT - A VHF or medium frequency RDF (radio direction finder) is required. This RDF will operate in the 110-170 MHz range.</p> <p>NAVIGATION EQUIPMENT – A full set of navigation equipment to include the provision of GPS and ECDIS (Electronic chart display and information systems) are to be provided.</p> |
| 3 | <p>The OPV shall be capable of being always contacted by MMO FMC Operations / other partner agencies.</p> |
| 4 | <p>The OPV must have the ability to always communicate securely between vessel and MMO Operations/ other partner agencies during patrol. Secure radio or satellite communication are possible options. The Provider shall advise on type and capability. Mobile phone is not considered suitable.</p> |
| 5 | <p>Communication shall be possible at any time between boarding teams and the mother vessel. HAND-HELD RADIOS - The OPV will be required to carry a minimum of 8 portable VHF and UHF marine radios. They are used for internal communications and small boat operations. A dedicated VHF/UHF base station should also be made available as a separate function to the ships bridge fit. The ability for these VHF/UHF radios and base station to work on private channels would be advantageous.</p> |
| 6 | <p>The OPV shall be capable of communicating with aircraft to exchange information and identify potential targets.</p> |
| 7 | <p>The OPV must be fitted with a VMS that is compatible with the specification as detailed in the MMO VMS5 document, available on the MMO's website. (MMO can advise on appropriate devices)</p> |
| 8 | <p>The OPV shall be capable of tracking fishing vessels by both AIS and radar and of recording fishing vessel positions from both AIS and radar. A permanent record of vessel positions must be capable of being recorded in an evidential format (legal fix). AIS systems shall have the ability to stop transmission and act in receive-mode only to enable the OPV to work covertly if required.</p> |

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| 9 | The OPV shall be capable of tracking a vessel visually during daylight to gather evidence of position and activity. |
| 10 | The OPV shall have equipment capable of taking high-quality photographs of fishing vessels to identify whether gear is deployed. Availability of a gyro-stabilised electro-optic day/night vision system would be an advantage. The system should have the capability to offer optical zoom that can detect and identify small targets/vessels at beyond 5 nautical miles. |

3.5 OPV Crew

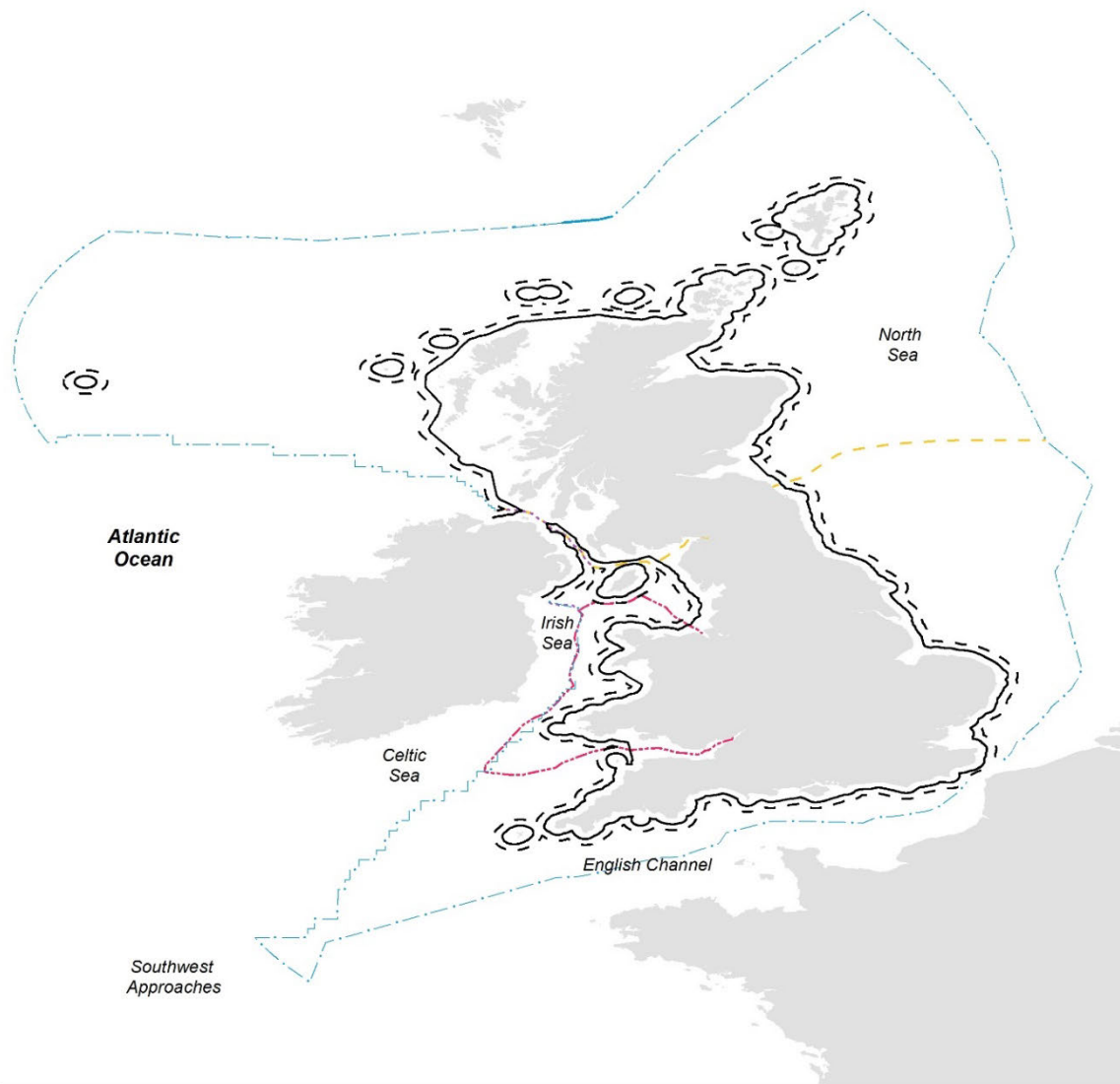
| Ref. | Requirement |
|------|---|
| 1 | To ensure the safety and wellbeing of the MMO staff, the MMO requires that the Provider's officers and crew are appropriately trained and qualified. To ensure this the Provider must conform to the MCA codes of practice information pack and MSN 1740 (M) training and certification of officers and crew on high-speed craft; where appropriate. All crew on board must have the appropriate visas to work inside the UKs territorial seas. |
| 2 | The OPV master and chief navigating officers must have good ship handling experience of at least 4 years, including handling vessels in close proximity to other vessels and deploying and recovering RHIBs in a range of sea conditions. CVs shall be provided to MMO for the Master and all Ships officers. |
| 3 | Communication will be conducted in English and all crew of the vessel shall speak English to a good standard. |
| 4 | Appropriately trained and experienced crew must be available to safely deploy / recover boarding boats |
| 5 | Appropriately trained and qualified coxswains and bowmen must be provided for the Boarding Boats. The coxswain must be experienced and skilled in embarking boarding teams aboard moving vessels in challenging conditions. CVs shall be provided to MMO for all RHIB coxswains and bowmen. All boarding boat coxswains will be required to attend the MMOs 1-week Boarding Course (this training to be paid for by the Provider). |
| 6 | As a result of the data gathered and actions taken by the MMO Marine Officers and OGDs during patrols information of a sensitive nature may be evident; as a result all crew members and company/organisation staff members who handle call outs and the like shall be required to enter into a confidentiality agreement with the Authority and/or other agencies as appropriate. Provider must have internal disciplinary measures in place and the Authority reserves the right to remove the Provider from the Agreement if confidentiality is breached. Crews may be required to make statements and give evidence in a court of law. The MMO shall provide appropriate training of crews, and cover any reasonable costs associated with court appearances etc. |
| 7 | The Provider shall ensure that all crew are made aware of the communication and media requirements. The MMO and the Authority will provide this information prior to charter. |

3.6 OPV Efficiency and Emissions

| Ref. | Requirement |
|------|--|
| 1 | It is expected that the Provider will seek to reduce impact upon the environment where practicable. This may include but is not limited to the use of low sulphur fuels, efficient operation and tasking of vessels, and the management and control of waste materials. |
| 2 | The Provider shall always comply with the Authority's sustainability policies throughout the duration of the Framework Contract. The Authority's policies are to achieve best value for money and continual improvements in the sustainable management of its estate, operations and procurement. These support the Government's greening commitments. The policies are included in the Authority's sustainable procurement policy statement published at: www.gov.uk/government/publications/defra-s-sustainable-procurement-policy-statement |
| 3 | The OPV shall use a modern and efficient propulsion system to limit carbon emissions and reduce fuel consumption. The use of diesel electric propulsion systems would be advantageous. The provider will be required to submit a fuelling plan and/or fuelling strategy. |

PART B: UK Zonal Map and Sea Areas

Map of United Kingdom and Northern Ireland Sea Areas



UK EEZ and Territorial Sea Limits

- UK Exclusive Economic Zone
- 12 Nautical Mile Limit, 1983 baseline (UKHO)
- 6 Nautical Mile Limit, 1983 baseline (UKHO)

UK Adjacent Waters

- Welsh Adjacent Waters
- Scottish Adjacent Waters
- Northern Ireland Adjacent Waters

Date of Publication: 25/01/2019
Coordinate System: GCS ETRS 1989
Datum: ETRS 1989
Units: Degree

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Schedule 3 (Charges)

1. How Charges are calculated

1.1 The Charges:

- 1.1.1 shall be calculated in accordance with the terms of this Schedule;
- 1.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and]

1.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.

2. The pricing mechanisms

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in this Contract.

3. Are costs and expenses included in the Charges

3.1 The Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

- 3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
- 3.1.2 costs incurred prior to the commencement of this Contract.

4. When the Supplier can ask to change the Charges

- 4.1 The Charges will be fixed for the first 2 (two) years following the Start Date (the date of expiry of such period is a "**Review Date**"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**") and by no more than 3% of the Charges in the previous Contract Year.
- 4.2 The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.
- 4.3 Any notice requesting an increase shall include:
 - 4.3.1 a list of the Charges to be reviewed;
 - 4.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including, but not limited to:
 - (a) a breakdown of the profit and cost components that comprise the relevant part of the Charges, including but not limited to

details relating to any increased overheads or operating costs, the impact on the Supplier of global inflationary pressures; any changes to wages paid to key crew members and/or supporting staff including a narrative as to the reason for the increased details of the movement in the different identified cost components of the relevant Charge;

- (b) reasons for the movement in the different identified cost components of the relevant Charge;
- (c) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
- (d) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Effective Date.

4.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.

4.5 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

5. Other events that allow the Supplier to change the Charges

5.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:

- 5.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8; or
- 5.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;

6.

6.1 Where Charges are increased in accordance with Paragraph 4.1 this Paragraph **Error! Reference source not found.** will apply.

6.2 The following costs, expenses, fees or charges included in the Charges shall not be subject to adjustment under this Paragraph **Error! Reference source not found.** and shall not be included in the relevant amount or sum for the purposes of Paragraph 6.1:

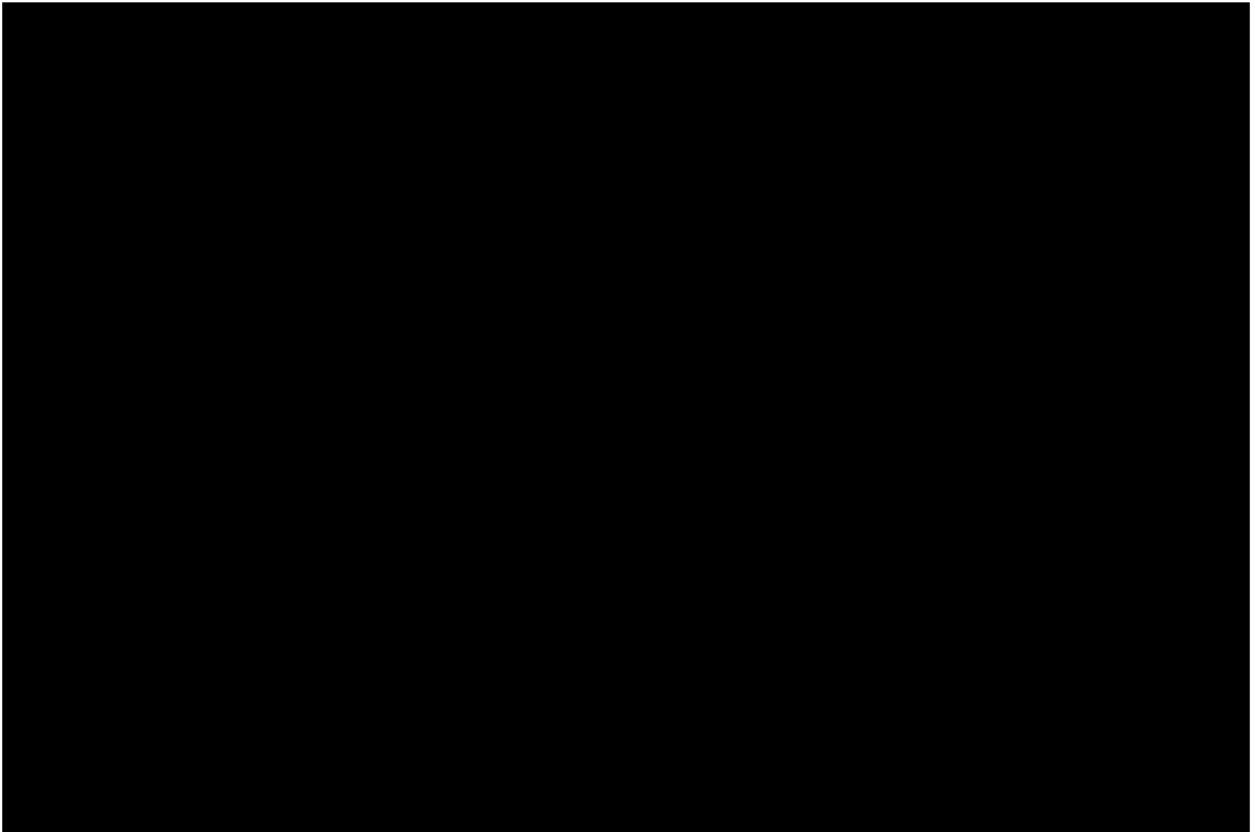
- 6.2.1 Any costs charged by the Supplier to the Buyer in respect of Supplier Assets or Buyer Assets (including capital costs and installation, maintenance and support costs) which are incurred by the Supplier prior to the relevant adjustment date but which remain to be recovered through the Charges.

6.3 Charges shall not be increased during the first **2 (two)]** years following the Start Date (the "**Non-Uplift Period**").

Annex 1: Rates and Prices

Table 2: Fixed/Firm Prices

The rates below shall be subject to variation by way of Indexation.



Schedule 4 (Tender)

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 |
|-----|------|---------|-----------------------------|
| | | | |

Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in this Contract, within three (3) Months of the Effective Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

Annex A: List of Transparency Reports

| Title | Content | Format | Frequency |
|-------------|----------------|--------------------------|-----------|
| Performance | Contract KPIs* | Reporting against target | Monthly |

*The supplier agrees that Performance Reports (KPIs) can be published in line with The Sourcing Playbook v3.0, Action Note PPN 06/23.

Schedule 7 (Staff Transfer)

1. Definitions

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

"Admission Agreement" either or both of the CSPA Admission Agreement (as defined in Annex **Error! Reference source not found.**: CSPA) or the LGPS Admission Agreement) as defined in Annex **Error! Reference source not found.**: LGPS), as the context requires;

"Employee Liability" all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer

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| | Date and also including any payments arising in respect of pensions; |
| | (f) claims whether in tort, contract or statute or otherwise; |
| | (g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation; |
| "Fair Deal Employees" | as defined in Part Error! Reference source not found. ; |
| "Former Supplier" | a supplier supplying the Services to the Buyer before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any subcontractor of any such subcontractor); |
| "New Fair Deal" | the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for staff pensions: staff transfer from central government"</i> issued in October 2013 including: <ul style="list-style-type: none"> (a) any amendments to that document immediately prior to the Relevant Transfer Date; (b) any similar pension protection in accordance with the Annexes Error! Reference source not found.-Error! Reference source not found. inclusive to Part Error! Reference source not found. of this Schedule as notified to the Supplier by the Buyer; |
| "Notified Subcontractor" | a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date; |
| "Old Fair Deal" | HM Treasury Guidance <i>"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"</i> issued in June 1999 including the supplementary guidance <i>"Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues"</i> issued in June 2004; |

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| "Partial Termination" | the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract); |
| "Replacement Subcontractor" | a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor); |
| "Relevant Transfer" | a transfer of employment to which the Employment Regulations applies; |
| "Relevant Transfer Date" | in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part Error! Reference source not found. and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date; |
| "Service Transfer" | any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor; |
| "Service Transfer Date" | the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires; |
| "Staffing Information" | in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, all information required in Annex E2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time. |
| "Statutory Schemes" | means the CSPS, NHSPS or LGPS as defined in the Annexes to Part Error! Reference source not found. of this Schedule; |

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| "Supplier's Final Supplier Staff List" | a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date; |
| "Supplier's Provisional Supplier Staff List" | a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier; |
| "Transferring Buyer Employees" | those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date; |
| "Transferring Former Supplier Employees" | in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and |
| "Transferring Supplier Employees" | those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Relevant Transfer Date. |

2. Interpretation

Where a provision in this Schedule imposes any obligation on the Supplier including to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

3. Which parts of this Schedule apply

The following parts of this Schedule shall apply to this Contract:

- 3.1 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Contract, including:
 - 3.1.1 Annex E1 (List of Notified Subcontractors);
 - 3.1.2 Annex E2 (Staffing Information).

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract; and
 - 1.1.3 the date which is twelve (12) Months before the end of the Term; or
 - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any six (6) Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.

- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
- 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):
- 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace

- 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
- 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Staff List;
- 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
- 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
- 1.5.11 not for a period of twelve (12) Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to

- the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
 - 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
 - 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);
 - 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph **Error! Reference source not found.** of Part **Error! Reference source not found.: Error! Reference source not found.** which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
 - 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last twelve (12) Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within twenty (20) Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
- 1.6.1 the numbers of Supplier Staff engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each Supplier Staff engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part **Error! Reference source not found.: Error! Reference source not found.**); and
 - 1.6.4 a description of the nature of the work undertaken by each Supplier Staff by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the

foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Staff List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;
 - 1.7.3 details of cumulative tax paid;
 - 1.7.4 tax code;
 - 1.7.5 details of any voluntary deductions from pay;
 - 1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;
 - 1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
 - 1.7.8 bank/building society account details for payroll purposes.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following within twenty (20) Working Days of a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any [reasonable] request to align and assign Supplier Staff to any future delivery model proposed by the Authority for Replacement Services within thirty (30) Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Variation Procedure.

2. Staff Transfer when the contract ends

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a

Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee

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

- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
 - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;
 - 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);
 - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Contract and/or the Employment Regulations; and
 - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, Including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or

- 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that their contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:
- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
 - 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within fifteen (15) Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
 - 2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;
 - 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;
- and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.6 The indemnity in Paragraph 2.5 shall not apply to:
- 2.6.1 any claim for:
 - (a) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (b) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

- arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or
- 2.6.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than six (6) Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Supplier and/or Replacement Subcontractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
- 2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 2.9.1 the Supplier and/or any Subcontractor; and
- 2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.
- 2.10 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.11 Subject to Paragraph 2.12, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:
- 2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined

in the Employment Regulations) of any such Transferring Supplier Employee.

- 2.11.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or
 - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;
- 2.11.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.11.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.11.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.11.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, to the extent that the proceeding, claim or demand by HMRC or other

statutory authority relates to financial obligations arising on and after the Service Transfer Date; and

- (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date;

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

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

2.12 The indemnity in Paragraph 2.11 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

Annex E1: List of Notified Subcontractors

Annex E2: Staffing Information

EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor: [Insert name of Transferor]

Number of Employees in-scope to transfer: []

{Guidance notes

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

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

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

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

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

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

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

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

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

| KPI | Measure | KPI description | KPI Rating (1- 3 scale) | | |
|---|--|---|---|---|--|
| | | | 1 | 2 | 3 |
| KPI 1 – Contract Management | <p>i - The Provider establishes monthly contract management meetings and provides supporting information in advance</p> <p>ii – Meetings minutes are provided and action log is established</p> | The Provider reacts in a timely manner | <p>Below expectations</p> <p>i – supporting information provided less than 24 hrs before monthly meeting and/or monthly meeting not scheduled in</p> <p>ii – Minutes are not provided</p> | <p>Meets expectations</p> <p>i – supporting information provided 3 working days before scheduled meeting</p> <p>ii – Minutes are provided within two weeks of meeting</p> | <p>Exceeds expectations</p> <p>i – supporting information provided 7 working days before scheduled meeting</p> <p>ii – minutes are provided within one working week of meeting</p> |
| KPI 2 – Response to resolve standard notified issues in a timely manner | The Provider offers suitable resolutions to identified issues including but not limited to, vessel safety, certification and performance, crew performance and/or certification and accommodation (this KPI is not intended to cover emergency conditions where there is an immediate risk of injury/loss of life) | The Provider offers suitable issue resolution in a timely manner, including providing copies of relevant documentation when requested | <p>Below expectations</p> <p>Supplier fails to respond and/or address issues within two working weeks of issue being raised</p> | <p>Meets expectations</p> <p>Supplier responds with proposed resolution plan within one working week of issue being raised</p> | <p>Exceeds expectations</p> <p>Supplier responds with proposed resolution plan within three working days of issue being raised</p> |

| | | | | | |
|--|--|--|---|--|--|
| KPI3 – Vessel performance and availability (including boarding crafts) | Vessel(s) are available for use by the authority on an uninterrupted basis to support the MMO with its compliance, monitoring and enforcement activities. Where vessels are unavailable for use the Authority will not be charged (as per contract T&C's). For the purposes of this KPI it is assumed that vessel(s) includes both the main vessels and associated boarding craft(s) | The Provider ensures the nominated vessel(s) or suitable replacements, are made available for all year-round use (unless prior agreement is received from the Authority) | Below expectations Vessel(s) are made available for MMO operational use for 350 days of the year | Meets expectations Vessels are made available for MMO operational use for 360 days of the year | Exceeds expectations Vessels are made available for MMO operational use for 365 days of the year |
| KPI4 – Food provision | MMO staff have adequate dietary provisions | Three meals a day provided for MMO officers including separate vegetarian / vegan options, fresh fruit and vegetables and allergy-free options when required | Below expectations Under 85% of meals meet the criteria specified for the provision of vegetarian/vegan options, fresh fruit and vegetables and allergy free options | Meets expectations Between 86 and 95% of meals meet the criteria specified for the provision of vegetarian/vegan options, fresh fruit and vegetables and allergy free options | Exceeds expectations Over 95% of meals meet the criteria specified for the provision of vegetarian/vegan options, fresh fruit and vegetables and allergy free options |
| KPI – 5 Tackling economic inequality | The Provider meets the commitments laid out within their bid on the number of new jobs created as a direct result of contract award | 4 new cadets sponsored each year who enter into employment | Below expectations Under 85% of commitments achieved | Meets expectations 100% of commitments achieved | Exceeds expectations Over 100% of commitments achieved |

| | | | | | |
|--|---|---|---|--|--|
| KPI 6 – Carbon reducing initiatives | The Provider meets the commitments laid out within their bid on the number of new carbon reducing initiatives introduced on the vessels chartered | 1 new carbon-reducing initiative introduced per contract year | Below expectations Under 100% of commitments achieved | Meets expectations 100% of commitments achieved | Exceeds expectations Over 100% of commitments achieved |
| KPI 7 – Organisational tCO2e reduction targets (scope 1, 2 and3) | The provider meets their annual, organisational tCO2e reduction targets (scope 1, 2 and3) as detailed in their submitted carbon reduction plan | Actual tCO2e reduction meets published targets | Below expectations Actual tCO2e reductions lower than published target | Meets expectations Actual tCO2e reductions same as published target | Exceeds expectations Actual tCO2e reductions higher than published target |

Schedule 14 (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 complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 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 16 (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 **Error! Reference source not found.**, 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 20 (Processing Data)

1. Status of the Controller

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 1.1.1 "Controller" in respect of the other Party who is "Processor";
 - 1.1.2 "Processor" in respect of the other Party who is "Controller";
 - 1.1.3 "Joint Controller" with the other Party;
 - 1.1.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",
- in respect of certain Personal Data under a Contract and shall specify in Annex 1 (Processing Personal Data) which scenario they think shall apply in each situation.

2. Where one Party is Controller and the other Party its Processor

- 2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (Processing Personal Data) by the Controller and may not be determined by the Processor.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
 - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
- 2.4.1 process that Personal Data only in accordance with Annex 1 (Processing Personal Data) unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures.
- 2.4.3 ensure that:
- (a) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex 1 (Processing Personal Data));
 - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement issued by the Information Commissioner under S119A(1) of the DPA 2018 (the "**IDTA**"); or
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
as well as any additional measures determined by the Controller being implemented by the importing party;
 - (c) the Data Subject has enforceable rights and effective legal remedies;
 - (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.
- 2.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.
- 2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:
- 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 2.5.2 receives a request to rectify, block or erase any Personal Data;
 - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
 - 2.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 2.5.6 becomes aware of a Data Loss Event.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 2.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
 - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
 - 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to this Contract, the Processor must:
- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 2.11.2 obtain the written consent of the Controller;
 - 2.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
 - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

3. Where the Parties are Joint Controllers of Personal Data

In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex **Error! Reference source not found.** (Joint Controller Agreement) to this Schedule 20 (Processing Data).

4. Independent Controllers of Personal Data

- 4.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 4.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 4.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 4.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 4.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of this Contract.

4.5 The Parties shall only provide Personal Data to each other:

- 4.5.1 to the extent necessary to perform their respective obligations under this Contract;
- 4.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
- 4.5.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
 - (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable); or
 - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
 - (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement (the "**IDTA**") as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
as well as any additional measures determined by the Controller being implemented by the importing party;
 - (c) the Data Subject has enforceable rights and effective legal remedies;

- (d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

4.5.4 where it has recorded it in Annex 1 (Processing Personal Data).

- 4.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 4.7 A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 4.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("**Request Recipient**"):
 - 4.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - 4.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

- 4.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to this Contract and shall:
- 4.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
 - 4.9.2 implement any measures necessary to restore the security of any compromised Personal Data;
 - 4.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 4.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (Processing Personal Data).
- 4.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex 1 (Processing Personal Data).
- 4.12 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 4.2 to 4.12 of this Schedule 20.

Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.
 - 1.1 The contact details of the Buyer's Data Protection Officer are:
[REDACTED]
 - 1.2 The contact details of the Supplier's Data Protection Officer are: **As per Award Form**
 - 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 |
|---|--|
| Identity of Controller for each Category of Personal Data | The Buyer is Controller and the Supplier is Processor The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data: <ul style="list-style-type: none">Names and any relevant medical conditions for MMO personnel provided as part of crew scheduling information |
| Subject matter of the Processing | Communication of names and medical conditions for MMO personnel aboard the vessel(s). Where medical information is disclosed it will only be in circumstances relevant and necessary |
| Duration of the Processing | The duration of the contract and any extension periods |
| Nature and purposes of the Processing | Personal data of MMO employees. Purpose is for protection and safety of employees and MMO legal obligations under the employment contract and health and safety |

| Description | Details |
|--|---|
| Type of Personal Data being Processed | Name, medical conditions and any appropriate and necessary risk assessments |
| Categories of Data Subject | Staff (inc. temporary workers or contractors) |
| Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data | To be destroyed by the supplier at contract termination/end date or at the point where the staff member leaves MMO |
| Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway | <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> |
| Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to | <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> |

| Description | Details |
|----------------------------|------------|
| data) or a Data Loss Event | [REDACTED] |
| | [REDACTED] |
| | [REDACTED] |
| | |
| | [REDACTED] |
| | [REDACTED] |
| | [REDACTED] |
| | |
| | [REDACTED] |
| | [REDACTED] |
| | [REDACTED] |
| | [REDACTED] |
| | [REDACTED] |

Schedule 21 (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: | [insert name of Buyer] ("the Buyer") And [insert name of Supplier] ("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 23 (Guarantee)

1. Definitions

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

| | |
|--------------------|---|
| "Guarantee" | a deed of guarantee in favour of a Buyer in the form set out in the Annex to this Schedule; and |
| "Guarantor" | the person acceptable to a Buyer to give a Guarantee. |

2. Guarantee

2.1 Where a Buyer has notified the Supplier that the award of this Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of this Contract, as a condition for the award of this Contract, the Supplier shall deliver to the Buyer:

2.1.1 an executed Guarantee from a Guarantor; and

2.1.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.

2.2 Where a Buyer has procured a Guarantee from the Supplier under Paragraph 2.1 above, the Buyer may terminate this Contract for Material Default where:

2.2.1 the Guarantor withdraws the Guarantee for any reason whatsoever;

2.2.2 the Guarantor is in breach or anticipatory breach of the Guarantee;

2.2.3 an Insolvency Event occurs in respect of the Guarantor;

2.2.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever; or

2.2.5 the Supplier fails to provide the documentation required by Paragraph 2.1 by the date so specified by the Buyer;

2.2.6 and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Buyer,

and the consequences of termination set out in Clause 14.5.1 shall apply.

Annex 1 – Form of Guarantee

Schedule 24 (Financial Difficulties)

1. Definitions

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

| | |
|-----------------------------|---|
| "Credit Rating Threshold" | the minimum credit rating level for the Supplier as set out in Annex 2; |
| "Credit Reference Agencies" | the credit reference agencies listed in Annex 1; |

2. When this Schedule applies

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Supplier and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive under this Contract until the termination or expiry of this Contract.

3. Credit Scores

- 3.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the credit scores issued for the Supplier by each of the Credit Reference Agencies are as set out in Annex 2.
- 3.2 The Supplier shall:
- 3.2.1 regularly monitor its credit scores with the Credit Reference Agencies; and
 - 3.2.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any reduction in the Supplier's credit scores, within five (5) Working Days).
- 3.3 Where the Supplier or its auditors notify the Buyer that there is a reduction in the credit scores, the Buyer has the right determine that this is a Notifiable Default and Clauses 11, 12, and 14 of the Core Terms will apply in relation to a Rectification Plan.
- 3.4 Where the Buyer wishes to exercise its right to extend the Term of this Contract it will request that the Supplier provides up to date credit reports from the relevant Credit Reference Agencies within 5 Business Days.

ANNEX 1: CREDIT REFERENCE AGENCIES

Credit Reference Agencies

Part A: Rating Agencies

Dun & Bradstreet

| Financial Strength Indicator | Tangible Net Worth (in £) | |
|------------------------------|----------------------------------|------------|
| Net Worth | From | To |
| 5A | 35,000,000 | And above |
| 4A | 15,000,000 | 34,999,999 |
| 3A | 7,000,000 | 14,999,999 |
| 2A | 1,500,000 | 6,999,999 |
| 1A | 700,000 | 1,499,999 |
| A | 350,000 | 699,999 |
| B | 200,000 | 349,999 |
| C | 100,000 | 199,999 |
| D | 70,000 | 99,999 |
| E | 35,000 | 69,999 |
| F | 20,000 | 34,999 |
| G | 8,000 | 19,999 |
| H | 0 | 7,999 |
| Alternate Symbols Used | | |
| N | Negative net worth | |
| O | Net worth undetermined (accounts | |

| Score | Risk Indicator | Probability of Failure |
|----------|----------------|--------------------------|
| 86 – 100 | 1 | Minimum Risk |
| 51 – 85 | 2 | Lower than average risk |
| 11 – 50 | 3 | Higher than average risk |
| 1 – 10 | 4 | High risk |
| - | - | Insufficient information |

ANNEX 2: CREDIT SCORES**Part A: Credit Rating**

| Entity | Credit rating (long term) | Credit Rating Threshold |
|--------------------|---------------------------|---|
| Supplier | | 2A or above |
| Supplier | | Minimum of 1.5x Turnover ratio score |
| Guarantor | | 2A or above and/or Minimum of 1.5x Turnover ratio score |
| Key Subcontractor | | 1 level below the actual Dun & Bradstreet Financial Strength Indicator and/or the Risk Indicator issued for the Key Subcontractor at the Effective Date |
| Monitored Supplier | | 1 level below the actual Dun & Bradstreet financial Strength Indicator and/or the Risk Indicator issued for the Key Subcontractor at the Effective Date |

Part B: Credit Score

| Entity | Credit score | Credit Score Notification Trigger | Credit Score Threshold |
|-----------|--------------|---|---------------------------|
| Supplier | ■ | ■ | ■ |
| Guarantor | ■ | ■ | ■ |

Part C: Financial Indicators

| Financial Indicator | Calculation ¹ | Financial Target Threshold: | Monitoring and Reporting Frequency |
|--|--|-----------------------------|--|
| 1 Turnover Ratio The Turnover Ratio is used to understand how large the contract is compared to the annual revenue of a bidder for the contract. | Turnover Ratio $= \text{Bidder Annual Revenue} / \text{Expected Annual Contract Value}$ | Minimum of 1.5 x | Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date. |

Schedule 25 (Rectification Plan)

| Request for [Revised] 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 [Revised] Rectification Plan: | [add date (minimum 10 days from request)] | | |
| Signed by Buyer: | | Date: | |
| Supplier [Revised] 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 26 (Sustainability)

1. Definitions

| | |
|----------------------------------|--|
| “Modern Slavery Assessment Tool” | means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat |
| “Supply Chain Map” | <p>means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least:</p> <ul style="list-style-type: none">(a) the name, registered office and company registration number of each entity in the supply chain;(b) the function of each entity in the supply chain; and(c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain; and |
| “Waste Hierarchy” | <p>means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011:</p> <ul style="list-style-type: none">(a) Prevention;(b) Preparing for re-use;(c) Recycling;(d) Other Recovery; and(e) Disposal. |

Part A

1. Public Sector Equality Duty

- 1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:

1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2 advance:

- (a) equality of opportunity; and
- (b) good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

2. Employment Law

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

3. Modern Slavery

3.1 The Supplier:

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that 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 around the world;

- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph Modern **Slavery**;
- 3.1.9 shall not use, nor allow its employees or Subcontractors 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 employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies;
- 3.1.12 if the Supplier is in Default under Paragraphs shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour; to shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies; of this Part A of Schedule 26 the Buyer may by notice:

- (a) require the Supplier to remove from performance of this Contract any sub-contractor, Supplier Personnel or other

- persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply; and

3.1.13 shall, if the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains).

-
- 3.2 If the Supplier notifies the Buyer pursuant to Clause shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies; it shall respond promptly to the Buyer'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 this Contract.
- 3.3 If the Supplier is in Default under Paragraph The Supplier: of this Part A of Schedule 26 the Buyer may by notice:

-
- 3.3.1 require the Supplier to remove from performance of this Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or

- 3.3.2 immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

4. Environmental Requirements

- 4.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 4.2 In performing its obligations under this Contract, the Supplier shall, where applicable to this Contract, to the reasonable satisfaction of the Buyer:

- 4.2.1 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
- 4.2.2 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and
- 4.2.3 ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.

- 4.3 In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry

or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.

- 4.4 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.
- 4.5 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

5. Supplier Code of Conduct

- 5.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs Public **Sector Equality Duty**-Supplier **Code of Conduct** of this Part A above within fourteen (14) days of such request.

Part B

1. Equality, Diversity and Inclusion – Further Requirements

- 1.1 In delivering the Deliverables, the Supplier will comply with the Buyer's equality, diversity and inclusion requirements, to be provided to the Supplier by the Buyer.
- 1.2 The Supplier shall ensure that it fulfils its obligations under this Contract in a way that does not discriminate against individuals because of socio-

economic background, working pattern or having parental or other caring responsibilities.

2. Environmental – Further Requirements

2.1 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer:

- 2.1.1 avoid consumable single use items (including packaging) unless otherwise agreed with the Buyer, and unless the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Deliverables;
- 2.1.2 demonstrate that the whole life cycle impacts (including end of use) associated with the Deliverables that extend beyond direct operations into that of the supply chain have been considered and reduced;
- 2.1.3 minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using re-use and closed loop systems;
- 2.1.4 demonstrate protection of the environment including understanding and reduction of biosecurity risks (which include risks to plant and tree health from harmful pests and diseases), and reducing and eliminating hazardous/harmful substances to the environment and preventing pollution;
- 2.1.5 enhance the natural environment and connecting communities with the environment; and

2.1.6 achieve continuous improvement in environmental (and social) performance

2.2 The Supplier shall inform the Buyer within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked.

3. Modern Slavery– Further Requirements

3.1 The Supplier shall comply with any request by the Buyer to complete the Modern Slavery Assessment Tool within sixty (60) days of such request.

3.2 The following shall be added to the definition of “Audit” in Schedule 1 immediately after limb (k):

“(l) carry out an unannounced or semi-announced inspection of any Site and speak directly to any Supplier Staff in a confidential manner and in the native language of such Supplier Staff in respect of workforce conditions, working or employment practices and recruitment practices;”

3.3 For the purposes of an audit carried out pursuant to limb (l) of the definition of “Audit”, in addition to any other rights under this Contract, the Buyer may instruct the Supplier to carry out such an audit of any Subcontractor by an

independent third party and, if so instructed, the Supplier shall deliver a report to the Buyer within ninety (90) days of such instruction.

- 3.4 The Supplier shall comply with any request by the Buyer to provide a Supply Chain Map within fourteen (14) days of such request.
- 3.5 The Supplier shall comply with any request by the Buyer to provide a copy of any reports of any Subcontractor regarding any or all of workplace conditions, working or employment practices and recruitment practices within fourteen (14) days of such request.
- 3.6 The Supplier shall carry out due diligence to ensure workers in its business and its supply chains are not paying illegal or exploitative recruitment fees to secure employment, and where these fees are uncovered shall ensure that workers are remedied.

4. Further Reporting Requirements

- 4.1 The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs Equality, **Diversity and Inclusion – Further Requirements** and Environmental – **Further Requirements** of this Part B above within thirty (30) days of such request, provided that such requests are limited to two per requirement per Contract Year.
- 4.2 The Supplier shall complete the reports in Table A of this Part B in relation to its provision of the Deliverables under this Contract and provide these to the Buyer on the date and frequency outlined in Table A of this Part B.

Table A

| Sustainability Report Name | Content of Report | Frequency of Report |
|----------------------------|---|---|
| Sustainability - General | As proportionate and relevant to this Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Deliverables of climate change, including mitigation, adaptation and continuity plans employed by the Supplier in response to those risks. | - On an annual basis on the anniversary of the contract start date |
| Greenhouse Gas Emissions | Detail the Scope 1 and Scope 2 GHG emissions associated with the delivery of the contract. Scope 3 emissions to be reported as required (Optional) Emissions reporting should be in accordance with established best practice and internationally accepted standards. Greenhouse gas reporting from emissions sources (Scope 1, Scope 2 and Scope 3), and specific activities as requested by the Buyer. This may include activities such as transportation, energy use and waste disposal. Please see Procurement Policy Note 06/21 for further information | On an annual basis on the anniversary of the contract start date |

Schedule 27 (Key Subcontractors)

1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under this Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
 - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
 - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
 - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
 - 1.4.1 a copy of the proposed Key Sub-Contract; and
 - 1.4.2 any further information reasonably requested by the Buyer.

- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
- 1.5.1 provisions which will enable the Supplier to discharge its obligations under the this Contract;
 - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
 - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
 - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
 - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under this Contract in respect of:
 - a) the data protection requirements set out in Clause 18 (Data protection);
 - b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
 - c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
 - d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
 - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this Contract) and 14.5 (What happens if this Contract ends) of this Contract;
 - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
 - 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).
- 1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

Schedule 28 (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" | means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: (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; or (c) where any part of the Supplier System is situated; |
| "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 10 (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 29 (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 | Contract Details |
|--------------------------------------|------------|--------------------------|
| QSHE Manager | [REDACTED] | [REDACTED] [REDACTED] |
| Operations Manager | [REDACTED] | [REDACTED] [REDACTED] |
| CEO | [REDACTED] | [REDACTED] [REDACTED] |
| Managing Director | [REDACTED] | [REDACTED] [REDACTED] |
| Crewing Officer/Crew Liaison Officer | [REDACTED] | [REDACTED] [REDACTED] |

Schedule 30 (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 8.2.1 of this Schedule; |
| "Transferring Contracts" | has the meaning given to it in Paragraph 8.2.3 of this Schedule; and |
| "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 36 (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 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) 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 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).
- 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 the management structure to be employed during the Termination Assistance Period;
 - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;

- 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
 - 4.3.6 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;
 - 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
 - 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
 - 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
 - 4.3.10 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;
 - 4.3.11 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;
 - 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
 - 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
 - 4.3.14 proposals for the disposal of any redundant Deliverables and materials;
 - 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
 - 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (Charges). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.
- 4.5 The Supplier shall:
- 4.5.1 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 a Termination Assistance Notice, and in any event no later than [ten (10) Working Days] after the date of the Termination Assistance Notice;
 - (d) 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
- 4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.6 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.
- 4.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 5.1.1 the nature of the Termination Assistance required; and
 - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
 - 5.2.2 the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination

Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
 - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
 - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
 - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
 - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer; and
 - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 cease to use the Government Data;
 - 7.2.2 vacate any Buyer Premises;

- 7.2.3 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;
- 7.2.4 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.
- 7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.

8. Assets, Sub-contracts and Software

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
 - 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
 - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 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:
 - 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

- 8.2.2 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
- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.
- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 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:
- 8.5.1 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
 - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 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.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

- 8.7.2 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.
- 8.8 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.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

9. 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.

10. Dividing the bills

All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

- 10.1 the amounts shall be annualised and divided by three hundred and sixty five (365) to reach a daily rate;
- 10.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 10.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Annex 1: Scope of Termination Assistance

1. Scope of Termination Assistance

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
 - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) Months immediately prior to the commencement of Termination Assistance;
 - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of twelve (12) Months after the Termination Assistance Period;
 - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
 - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
 - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
 - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
 - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
 - 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
 - 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth

transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- (a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

- (a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
- (b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
- (c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;
- (d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- (e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier will:

1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Contract; and

1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:

1.4.1 copies of up-to-date procedures and operations manuals;

1.4.2 product information;

1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

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

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:

(a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and

(b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and

1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Schedule 31 (Buyer Specific Terms)

Where the terms Charterer and Owner are used within this Schedule 31, Charterer shall mean Supplier and Owner shall mean Buyer in accordance with the Mid-Tier Contract.

BIMCO SUPPLYTIME 2005

| | | |
|--|--|---|
| 1. Place and date of Contract Newcastle-upon-Tyne, 1 st November 2024 | TIME CHARTER PARTY FOR OFFSHORE SERVICE VESSELS CODE NAME: SUPPLYTIME 2005 PART I | |
| 2. Owners/place of business (full style, address, e-mail and fax no.) Sentinel Marine Ltd [REDACTED] [REDACTED] [REDACTED] [REDACTED] | 3. Charterers/place of business (full style, address, e-mail and fax no.) Department of Environment, Food and Rural Affairs (Defra) [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] | |
| 4. Vessel's name and IMO number (Annex A) [REDACTED] [REDACTED] | 5. Date of delivery (Cl. 2(a) and (c)) Continuation of charter from previous contract | 6. Cancelling date (Cl. 2(a) and (c)) As set out in the Mid Tier Contract Award Form |
| 7. Port or place of delivery (Cl. 2(a)) Continuation of charter from previous contract | 8. Port or place of redelivery/notice of redelivery (Cl.2(d)) (i) Port or place of redelivery | |
| | (ii) Number of days' notice of redelivery N/A | |
| 9. Period of hire (Cl. 1(a)) As set out in the Mid Tier Contract Award Form | 10. Extension of period of hire (optional) (Cl. 1b)) As set out in the Mid Tier Contract Award Form | |
| | (i) Period of extension | |
| | (ii) Advance notice of declaration of option (days) 7 days | |
| 11. Automatic extension period to complete voyage or well (Cl. 1 (c)) | 12. Mobilisation charge (Cl. 2(b)(i)) N/A | |
| (i) Voyage or well (state which) Voyage | (i) Lump sum N/A | |
| (ii) Maximum extension period (state number of days) | (ii) When due N/A | |
| 13. Early termination of charter (Cl. 31(a)) N/A | 14. Number of days' notice of early termination (Cl. 31(a)) | 15. Demobilisation charge (lump Sum (Cl. 2(e) and Cl. 31(a)) |
| (i) State yes, if applicable N/A | | |
| (ii) If yes, state amount of hire payable N/A | | |

| | |
|---|--|
| 16. Area of operation (Cl. 6(a)) | 17. Employment of vessel restricted to (state nature of service(s)) (Cl. 6(a)) As set out in the Mid Tier Contract Award Form and Schedule 2 of the Mid Tier Contract |
| 18. Specialist operations (Cl. 6(a)) As stated in the Specification to the Mid Tier Contract | 19. Bunkers (Cl. 10) |
| (i) State if vessel may be used for ROV operations N/A | (i) Quantity of bunkers on delivery and redelivery Supplier to be re-imbursed by buyer for any fuel taken onboard the vessels during duration of contract |
| | (ii) Price of bunkers on delivery Supplier to be re-imbursed by buyer for any fuel taken onboard the vessels during duration of contract |
| (ii) State if vessel may be employed as a diving platform N/A | (iii) Price for bunkers on redelivery Supplier to be re-imbursed by buyer for any fuel taken onboard the vessels during duration of contract |
| | (iv) Fuel specifications and grades for fuel supplied by Charterers |

(continued)

SUPPLYTIME 2005 Time Charter Party for Offshore Service Vessels

PART I

| | | | |
|---|---|--|--|
| 20. Charter hire (state rate and currency) (Cl. 12(a), (d) and (e)) | | 21. Extension hire (if agreed, state rate) (Cl. 12(b)) | |
| 22. Invoicing for hire and other payments (Cl. 12(d)) (i) State whether to be issued in advance or arrears As specified in clause 4 and Schedule 3 of the Mid Tier Contract (ii) State by whom to be issued if other than the party stated in Box 2 As specified in clause 4 and Schedule 3 of the Mid Tier Contract (iii) State to whom to be issued if addressee other than stated in Box 3 As specified in clause 4 and Schedule 3 of the Mid Tier Contract | | 23. Payments (state mode and place of payment; also state beneficiary and bank account) (Cl. 12(e)) As set out in the Mid Tier Contract Award Form | |
| 24. Payment of hire, bunker invoices and disbursements for Charterers' Account (state maximum number of days) (Cl. 12(e)) N/A | | 25. Interest rate payable (Cl. 12(e)) Not applicable | 26. Maximum audit period (Cl. 12(g)) As specified in clause 6 of the Mid Tier Contract |
| 27. Meals (state rate agreed) (Cl. 6(c)(i)) As specified in Schedule 3 of the Mid Tier Contract | 28. Accommodation (state rate agreed) (Cl. 6(c)(i)) As specified in Schedule 3 of the Mid Tier Contract | 29. Sublet (state amount of daily increment of charter hire) (Cl. 20) Not applicable | |
| 30. War Cancellation (indicate countries agreed) (Cl. 23) N/A | | | |
| 31. General Average (Place of settlement – only to be filled in if other than London) (Cl. 26) | | | |
| 32. Taxes (Payable by Owners) (Cl. 30) All taxes relating to the delivery of the services to be paid by the Owner | | | |
| 33. Breakdown (State period) (Cl. 32(b)(v)) N/A | | | |
| 34. Dispute resolution (state (a), (b) or (c) of Cl. 34, as agreed; if (c) agreed also state Place of Arbitration) (Cl. 34) N/A - As specified in clause 39 of the Mid Tier Contract | | | |
| 35. Numbers of additional clauses covering special provisions, if agreed All terms and conditions of the Mid Tier Contract are incorporated by reference into this Contract. In the event of any inconsistency between the terms of this Contract and the Mid Tier Contract, the terms and conditions of the Mid Tier Contract shall take precedence. | | | |

It is mutually agreed that this Contract shall be performed subject to the conditions contained in the id Tier Contract, the Charter consisting PART I, including addition clauses, if any agreed as stated in Box 35, and PART II as well as ANNEX "A" and ANNEX "B" as annexed to this Charter. In the event of a conflict of conditions, the provision of PART I shall prevail over those of PART II and ANNEX "A" and ANNEX "B" to the extent of such conflict but no further.

| | |
|--------------------|------------------------|
| Signature (Owners) | Signature (Charterers) |
|--------------------|------------------------|

PART II
SUPPLYTIME 2005 Time Charter Party for Offshore Service Vessels

Definitions

"Owners" shall mean the party stated in Box 2.

"Charterers" shall mean the party stated in Box 3.

~~"Mid Tier Contract"~~ **"Mid Tier Contract"** means the contract dated [xxx] and made between the Charterers (as the Buyer) and the Owner (as the Supplier).

"RHIB" means any rigid hull inflatable boat used by the Owner to provide the Services.

"Services" has the meaning given to such term in the Mid Tier Contract.

"Vessel" shall mean the vessel named in Box 4 and with particulars stated in ANNEX "A" and together with any RHIB.

"Working Day" has the meaning given to such term in the Mid Tier Contract.

~~"Well"~~ shall mean the time required to drill, test, complete and/or abandon a single borehole including any side track thereof.

~~"Offshore Unit"~~ shall mean any vessel, offshore installation, structure and/or mobile unit used in offshore exploration, construction, pipe laying or repair, exploitation or production.

"Employees" shall mean employees, directors, officers, servants, agents or invitees.

1. Charter Period

(a) The Owners let and the Charterers hire the Vessel for the period as stated in Box 9 from the time the Vessel is delivered to the Charterers.

(b) Subject to Clause 12(b), the Charterers have the option to extend the Charter Period in direct continuation for the period stated in Box 10(i), but such an option must be declared in accordance with Box 10(ii).

(c) The Charter Period shall automatically be extended for the time required to complete the voyage or well (whichever is stated in Box 11(i)) in progress, such time not to exceed the period stated in Box 11(ii).

2. Delivery and Redelivery

(a) Delivery. Subject to Clause 2(b) the The Vessel shall be delivered by the Owners free of cargo and with clean tanks at any time between the date stated in Box 5 and the date stated in Box 6 at the port or place stated in Box 7 where the Vessel can safely lie always afloat.

(b) ~~Mobilisation~~ [Intentionally deleted]

(i) ~~The Charterers shall pay a lump sum mobilisation charge as stated in Box 12 without discount.~~

(ii) ~~Should the Owners agree to the Vessel loading and transporting cargo and/or undertaking any other service for the Charterers en route to the port of delivery or from the port of redelivery, then all terms and conditions of this Charter Party shall apply to such loading and transporting and/or other service exactly as if performed during the Charter Period excepting only that any lump sum freight agreed in respect thereof shall be payable and earned on shipment or commencement of the service as the case may be, the Vessel and/or goods lost or not lost.~~

(c) Cancelling. If the Vessel is not delivered by 1200 hours local time on the cancelling date stated in Box 6, the Charterers shall be entitled to cancel this Charter Party. However, if the Owners will be unable to deliver the Vessel by the cancelling date, they may give notice in writing to the Charterers at any time prior to the delivery date as stated in Box 5 and shall state in such notice the date by which they will be able to deliver the Vessel. The Charterers may within 2472 hours of receipt of such notice give notice in writing to the Owners cancelling this Charter Party. If the Charterers do not give such notice, then the later date specified in the Owners' notice shall be substituted for the cancelling date for all the purposes of this Charter Party. In the event the Charterers cancel the Charter Party, it shall terminate on terms that neither party shall be liable to the other for any losses incurred by reason of the non-delivery of the Vessel or the cancellation of the Charter Party.

(d) Redelivery. The Vessel shall be redelivered on the expiration or earlier termination of this Charter Party free of cargo and with clean tanks at the port or place as stated in Box 8(i) or such

other port or place as may be mutually agreed. The Charterers shall give not less than the number of days notice in writing of their intention to redeliver the Vessel, as stated in Box 8(ii).

(e) ~~Demobilisation.~~ The Charterers shall pay a lump sum demobilisation charge without discount in the amount as stated in Box 15 which amount shall be paid on the expiration or on earlier termination of this Charter Party.

3. Condition of Vessel

(a) The Owners undertake that at the date of delivery under this Charter Party the Vessel shall be of the description and Class as specified in ANNEX "A", attached hereto, and in a thoroughly efficient state of hull and machinery.

(b) The Owners shall exercise due diligence to maintain the Vessel in such Class and in every way fit for the service stated in Clause 6 throughout the period of this Charter Party.

4. Structural Alterations and Additional Equipment

At delivery, the Charterers shall inspect the Vessel to check that the Vessel meets the technical requirements set out in the Mid Tier Contract. If (at the sole and absolute discretion of the Charterers), any structural alterations are required to the Vessel or any additional equipment is required to be installed on the Vessel, in each case to provide the Services in accordance with the Mid Tier Contract, the Charterers shall, at their expense, have the option of (upon request of the Charterers) making make such structural alterations to the Vessel or install such installing additional equipment as the Charterers may reasonably require and shall redeliver the Vessel with all alterations or additional equipment properly undertaken and installed within the period agreed with the Charterer with the written consent of the Owners, which shall not be unreasonably withheld. Unless otherwise agreed, the Vessel is to be redelivered reinstated, at the Charterers' expense, to her original condition. The Vessel is to remain on hire during any period of these alterations or reinstatement. The Charterers shall at all times be responsible for repair and maintenance of any such alteration or additional equipment. However, the Owners may, upon giving notice, undertake any such repair and maintenance at the Charterers' expense, when necessary for the safe and efficient performance of the Vessel.

5. Survey

~~The Owners and the Charterers shall jointly appoint an independent surveyor for the purpose of determining and agreeing in writing, the condition of the Vessel, any anchor handling and towing equipment specified in ANNEX "A", and the quality and quantity of fuel, lubricants and water at the time of delivery and redelivery hereunder. The Owners and the Charterers shall jointly share the time and expense of such surveys.~~

6. Employment and Area of Operation

(a) The Vessel shall be employed in offshore activities which are lawful in accordance with the law of the place of the Vessel's flag and/or registration and of the place of operation. Such activities shall be restricted to the service(s) as stated in Box 17, and to voyages between any good and safe port or place where the Vessel can safely lie always afloat within the Area of Operation as stated in Box 16 which shall always be within International Navigation Limits and which shall in no circumstances be exceeded without prior agreement and adjustment of the Hire and in accordance with such other terms as appropriate to be agreed; provided always that the Charterers do not warrant the safety of any such port or place or offshore unit but shall exercise due diligence in issuing their orders to the Vessel as if the Vessel were their own property and having regard to her capabilities and the nature of her employment.

~~Unless otherwise stated in Box 18(i), the Charterers shall not have the right to use the Vessel for ROV operations. Unless otherwise stated in Box 18(ii), the Vessel shall not be employed as a diving platform.~~

(b) Relevant permission and licences from responsible authorities for the Vessel to enter, work in and leave the Area of Oper-

ation shall be obtained by the Charterers and the Owners. shall assist, if necessary, in every way possible to secure such permission and licences.

(c) The Vessel's Space. The whole reach and burden and decks of the Vessel shall throughout the Charter Period be at the Charterers' disposal reserving proper and sufficient space for the Vessel's Master, Officers, Crew, tackle, apparel, furniture, provisions and stores. The Charterers shall be entitled to carry, so far as space is available and for their purposes in connection with their operations:

(i) Persons other than crew members, other than fare paying, and for such purposes to make use of the Vessel's available accommodation not being used on the voyage by the Vessel's Crew. The Owners shall provide suitable provisions and requisites for such persons [for which the Charterers shall pay at the rate as stated in Box 27 per meal and at the rate as stated in Box 28 per day for the provision of bedding and services for persons using berth accommodation.]

(ii) Lawful cargo whether carried on or under deck.

(iii) Explosives and dangerous cargo whether in bulk or packaged, provided proper notification has been given and such cargo is marked and packed in accordance with the national regulations of the Vessel and/or the International Maritime Dangerous Goods Code and/or other pertinent regulations. Failing such proper notification, marking or packing the Charterers shall indemnify the Owners in respect of any loss, damage or liability whatsoever and howsoever arising therefrom. The Charterers accept responsibility for any additional expenses (including reinstatement expenses) incurred by the Owners in relation to the carriage of explosives and dangerous cargo.

(iv) Hazardous or noxious substances, subject to Clause 14(f), proper notification and any pertinent regulations.

(d) Laying-up of Vessel. The Charterers shall have the option of laying up the Vessel at an agreed safe port or place for all or any portion of the Charter Period in which case the Hire hereunder shall continue to be paid but, if the period of such lay-up exceeds 30 consecutive days, there shall be credited against such Hire the amount which the Owners shall reasonably have saved by way of reduction in expenses and overheads as a result of the lay-up of the Vessel.

(e) As soon as reasonably practicable following the date of this Charter Party and in any event no later than 2 Working Days prior to delivery of the Vessel the Charterers and the Owners shall work together in good faith to agree the details of any operational plans or documents which are necessary for the safe and efficient operation of the Vessel. All such documents shall be returned to the Charterers on redelivery of the Vessel.

7. Master and Crew

(a) (i) The Master shall carry out his duties promptly and the Vessel shall render all reasonable services within her capabilities by day and by night and at such times and on such schedules as the Charterer's representative(s) on board the Vessel at any time may require or otherwise as the Charterers may reasonably require in accordance with the Mid Tier Contract without any obligations of the Charterers to pay to the Owners or the Master, Officers or the Crew of the Vessel any excess or overtime payments. The Charterers shall furnish the Master with all instructions and sailing directions and the Master and Engineer shall keep full and correct logs accessible to the Charterers or their agents.

(ii) (1) No Bills of Lading shall be issued for shipments under this Charter Party.

(2) The Master shall sign cargo documents as directed by the Charterers in the form of receipts that are non negotiable documents and which are clearly marked as such.

(3) The Charterers shall indemnify the Owners against all liabilities that may arise from the signing of such cargo documents in accordance with the directions of the Charterers to the extent that the terms of such cargo documents impose more onerous liabilities than those assumed by the Owners under the terms of this Charter Party.

(b) The Vessel's Crew if required by Charterers will connect and disconnect electric cables, fuel, water and pneumatic hoses when placed on board the Vessel in port as well as alongside the offshore units; will operate the machinery on board the Vessel for loading and unloading cargoes; and will hook and unhook cargo on board the Vessel when loading or discharging alongside offshore units. If the port regulations or the seamen and/or labour unions do not permit the Crew of the Vessel to carry out any of this work, then the Charterers shall make, at their own expense, whatever other arrangements may be necessary, always under the direction of the Master.

(c) If the Charterers have reason to be dissatisfied with the conduct of the Master or any Officer or member of the Crew, the Owners on receiving particulars of the complaint shall promptly investigate the matter and if the complaint proves to be well founded, the Owners shall as soon as reasonably possible make appropriate changes in the appointment.

(d) The entire operation, navigation, and management of the Vessel shall be in the exclusive control and command of the Owners, their Master, Officers and Crew. The Vessel will be operated and the services hereunder will be rendered as requested by the Charterers, subject always to the exclusive right of the Owners or the Master of the Vessel to determine whether operation of the Vessel may be safely undertaken. In the performance of the Charter Party, the Owners are deemed to be an independent contractor, the Charterers being concerned only with the results of the services performed.

8. Owners to Provide

(a) The Owners shall provide and pay for all provisions, wages and all other expenses of the Master, Officers and Crew; all maintenance and repair of the Vessel's hull, machinery and equipment as specified in ANNEX "A"; also, except as otherwise provided in this Charter Party, for all insurance on the Vessel, all dues and charges directly related to the Vessel's flag and/or registration, all deck, cabin and engine room stores, cordage required for ordinary ship's purposes mooring alongside in harbour, and all fumigation expenses and de-ratisation certificates. The Owners' obligations under this Clause extend to cover all liabilities for consular charges appertaining to the Master, Officers and Crew, customs or import duties arising at any time during the performance of this Charter Party in relation to the personal effects of the Master, Officers and Crew, and in relation to the stores, provisions and other matters as aforesaid which the Owners are to provide and/or pay for and the Owners shall refund to the Charterers any sums they or their agents may have paid or been compelled to pay in respect of such liability.

(b) On delivery the Vessel shall be equipped, if appropriate, at the Owners' expense with any towing and anchor handling equipment specified in ANNEX "A".

9. Charterers to Provide

(a) While the Vessel is on hire the Charterers Owners shall provide and pay for all fuel, lubricants, water, dispersants, firefighting foam and transport thereof, port charges, pilotage and boatmen and canal steersmen (whether compulsory or not), launch hire (unless incurred in connection with the Owners' business), light dues, tug assistance, canal, dock, harbour, tonnage and other dues and charges, agencies and commissions incurred on the Charterers' business, costs for security or other watchmen, and of quarantine (if occasioned by the nature of the cargo carried or the ports visited whilst employed under this Charter Party but not otherwise).

(b) At all times the Charterers Owners shall (to the extent applicable) provide and pay for the loading and unloading of cargoes so far as not done by the Vessel's crew; cleaning of cargo tanks, all necessary dunnage, uprights and shoring equipment for securing deck cargo, all cordage except as to be provided by the Owners, all ropes, slings and special runners (including bulk cargo discharge hoses) actually used for loading and discharging, inert gas required for the protection of cargo, and electrodes used for offshore works; and shall reimburse the Owners for the actual cost of replacement of special mooring lines to offshore units, wires, nylon spring lines etc. used for offshore works, all hose connections and adaptors, and further, shall refill oxygen/acetylene bottles used for offshore works.

(c) Upon entering into this Charter Party or in any event no later than the time of delivery of the Vessel the Charterers shall provide the Owners with copies of any operational plans or documents

which are necessary for the safe and efficient operation of the Vessel. All documents received by the Owners shall be returned to the Charterers on redelivery.

9. Customs duties etc

(d) The Charterers shall pay for customs duties, all permits, import duties (including costs involved in establishing temporary or permanent importation bonds), and clearance expenses, both for the Vessel and/or equipment, required for or arising out of this Charter Party.

(e) The Charterers shall pay for any replacement of any anchor handling/towing/lifting wires and accessories which have been placed on board by the Owners or the Charterers, should such equipment be lost, damaged or become unserviceable, other than as a result of the Owners' negligence.

(f) The Charterers shall pay for any fines, taxes or imposts levied in the event that contraband and/or unmanifested drugs and/or cargoes are found to have been shipped as part of the cargo and/or in containers on board. In the event that contraband and/or unmanifested drugs and/or cargoes are found to have been shipped as part of the cargo and/or in containers on board, the Vessel shall remain on hire during any time lost as a result thereof. However, if it is established that the Master, Officers and/or Crew are involved in smuggling then any financial security required shall be provided by the Owners.

10. Bunkers

Arrangements in relation to Bunkers to be discussed and included only in circumstances where the daily rate agreed with a Provider is exclusive of fuel.

(a) Quantity at Delivery/Redelivery. The Vessel shall be delivered with at least the quantity of fuel as stated in Box 19 (i) and the Vessel shall be redelivered with about the same quantity as on delivery, provided always that the quantity of fuels at redelivery is at least sufficient to allow the Vessel to safely reach the nearest port at which fuels of the required type or better are available.

(b) Purchase Price The Charterers shall purchase the fuels on board at delivery at the price prevailing at the time and port of delivery unless otherwise stated in Box 19 (ii) and the Owners shall purchase the fuels on board at redelivery at the price prevailing at the time and port of redelivery unless otherwise stated in Box 19 (iii). The Charterers shall purchase the lubricants on board at delivery at the list price and the Owners shall purchase the lubricants on board at redelivery at the list price.

(c) Bunkering. The Charterers shall supply fuel of the specifications and grades stated in Box 19 (iv). The fuels shall be of a stable and homogeneous nature and unless otherwise agreed in writing, shall comply with ISO standard 8217:1996 or any subsequent amendments thereof as well as with the relevant provisions of MARPOL. The Chief Engineer shall co-operate with the Charterers' bunkering agents and fuel suppliers and comply with their requirements during bunkering, including but not limited to checking, verifying and acknowledging sampling, reading or soundings, meters etc. before, during and/or after delivery of fuels. During delivery four representative samples of all fuels shall be taken at a point as close as possible to the Vessel's bunker manifold. The samples shall be labelled and sealed and signed by suppliers, Chief Engineer and the Charterers or their agents. Two samples shall be retained by the suppliers and one each by the Vessel and the Charterers. If any claim should arise in respect of the quality or specification or grades of the fuels supplied, the samples of the fuels retained as aforesaid shall be analysed by a qualified and independent laboratory.

(d) Liability. The Charterers shall be liable for any loss or damage to the Owners caused by the supply of unsuitable fuels or fuels which do not comply with the specifications and grades set out in Box 19 (iv) and the Owners shall not be held liable for any reduction in the Vessel's speed performance and/or increased bunker consumption nor for any time lost and any other consequences arising as a result of such supply.

11. BIMCO ISPS/MTSA Clause for Time Charter Parties

(a) (i) The Owners shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) relating to the Vessel and "the Company" (as defined by the

ISPS Code). If trading to or from the United States or passing through United States waters, the Owners shall also comply with the requirements of the US Maritime Transportation Security Act 2002 (MTSA) relating to the Vessel and the "Owner" (as defined by the MTSA).

(ii) Upon request the Owners shall provide a copy of the relevant International Ship Security Certificate (or the Interim International Ship Security Certificate) to the Charterers. The Owners shall provide the Charterers with the full style contact details of the Company Security Officer (CSO).

(iii) Except as otherwise provided in this Charter Party, loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) caused by failure on the part of the Owners or "the Company"/"Owner" to comply with the requirements of the ISPS Code/MTSA or this Clause shall be for the Owners' account.

(b) (i) The Charterers shall provide the Owners and the Master with their full style contact details and, upon request, any other information the Owners require to comply with the ISPS Code/MTSA. Furthermore, the Charterers shall ensure that all sub-charter parties they enter into during the period of this Charter Party contain the following provision:

"The Charterers shall provide the Owners with their full style contact details and, where subletting is permitted under the terms of the charter party, shall ensure that the contact details of all sub-charterers are likewise provided to the Owners".

(ii) Except as otherwise provided in this Charter Party, loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) caused by failure on the part of the Charterers to comply with this Clause shall be for the Charterers' account.

(c) Notwithstanding anything else contained in this Charter Party all delay, costs or expenses whatsoever arising out of or related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code/MTSA including, but not limited to, security guards, launch services, tug escorts, port security fees or taxes and inspections, shall be for the Charterers' Owners' account, unless such costs or expenses result solely from the Owners' negligence. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account.

(d) If either party makes any payment which is for the other party's account according to this Clause, the other party shall indemnify the paying party.

12. Hire and Payments

(a) Hire. The Charterers shall pay Hire for the Vessel at the rate stated in Box 20 per day or pro rata for part thereof from the time that the Vessel is delivered to the Charterers until the expiration or earlier termination of this Charter Party.

(b) Extension Hire. If the option to extend the Charter Period under Clause 1(b) is exercised, Hire for such extension shall, unless stated in Box 21, be agreed between the Owners and the Charterers. Should the parties fail to reach an agreement, then the Charterers' shall not have the option to extend the Charter Period.

(c) Adjustment of Hire. The rate of hire shall be adjusted to reflect documented changes, after the date of entering into the Charter Party or the date of commencement of employment, whichever is earlier, in the Owners' costs arising from changes in the Charterers' requirements, or regulations governing the Vessel and/or its Crew or this Charter Party or the application thereof.

(d) Invoicing. All invoices shall be issued in the contract currency stated in Box 20. In respect of reimbursable expenses incurred in currencies other than the contract currency, the rate of exchange into the contract currency shall be that quoted by the Central Bank of the country of such other currency as at the date of the Owners' invoice. Invoices covering Hire and any other payments due shall be issued monthly as stated in Box 22(i) or at the expiration or earlier termination of this Charter Party. Notwithstanding the foregoing, bunkers and lubricants on board at delivery shall be invoiced at the time of delivery. The provisions of clause 4 and Schedule 3 of the Mid Tier Contract shall apply.

(e) Payments. The provisions of clause 4 and Schedule 3 of the Mid Tier Contract shall apply. Payments of Hire, bunker invoices and disbursements for the Charterers' account shall be received within the number of days stated in Box 24 from the date of receipt

of the invoice. Payment shall be made in the currency stated in Box 20 in full without discount to the account stated in Box 23. However, any advances for disbursements made on behalf of and approved by the Owners may be deducted from Hire due.

If payment is not received by the Owners within 5 banking days following the due date the Owners are entitled to charge interest at the rate stated in Box 25 on the amount outstanding from and including the due date until payment is received.

Where an invoice is disputed, the Charterers shall notify the Owners before the due date and in any event pay the undisputed portion of the invoice but shall be entitled to withhold payment of the disputed portion provided that such portion is reasonably disputed and the Charterers specify such reason. Interest will be chargeable at the rate stated in Box 25 on such disputed amounts where resolved in favour of the Owners. Should the Owners prove the validity of the disputed portion of the invoice, balance payment shall be received by the Owners within 5 banking days after the dispute is resolved. Should the Charterers' claim be valid, a corrected invoice shall be issued by the Owners.

(f) (i) Where there is a failure to pay Hire by the due date, the Owners shall notify the Charterers in writing of such failure and further may also suspend the performance of any or all of their obligations under this Charter Party until such time as all the Hire due to the Owners under the Charter Party has been received by the Owners. Throughout any period of suspended performance under this Clause, the Vessel is to be and shall remain on Hire. The Owners' right to suspend performance under this Clause shall be without prejudice to any other rights they may have under this Charter Party.

(ii) If after 5 days of the written notification referred to in Clause 12(f)(i) the Hire has still not been received the Owners may at any time while Hire remains outstanding withdraw the Vessel from the Charter Party. The right to withdraw is to be exercised promptly and in writing and is not dependent upon the Owners first exercising the right to suspend performance of their obligations under the Charter Party pursuant to Clause 12(f)(i) above. The receipt by the Owners of a payment from the Charterers after the five day period referred to above has expired but prior to the notice of withdrawal shall not be deemed a waiver of the Owners' right to cancel the Charter Party.

(iii) Where the Owners choose not to exercise any of the rights afforded to them by this Clause in respect of any particular late payment of Hire, or a series of late payments of Hire, under the Charter Party, this shall not be construed as a waiver of their right either to suspend performance under Clause 12(f)(i) or to withdraw the Vessel from the Charter Party under Clause 12(f)(ii) in respect of any subsequent late payment under this Charter Party.

(iv) The Charterers shall indemnify the Owners in respect of any liabilities incurred by the Owners under the Bill of Lading or any other contract of carriage as a consequence of the Owners' proper suspension of and/or withdrawal from any or all of their obligations under this Charter Party.

(g) **Audit.** The Charterers shall have the right to appoint an independent chartered accountant to audit the Owners' books directly related to work performed under this Charter Party at any time after the conclusion of the Charter Party, up to the expiry of the period stated in Box 26, to determine the validity of the Owners' charges hereunder. The Owners undertake to make their records available for such purposes at their principal place of business during normal working hours. Any discrepancies discovered in payments made shall be promptly resolved by invoice or credit as appropriate. The provisions of clause 39 of the Mid Tier Contract shall apply.

13. Suspension of Hire

(a) If as a result of any deficiency of Crew or of the Owners' stores, strike of Master, Officers and Crew, breakdown of machinery, damage to hull or other accidents to the Vessel, the Vessel (including without limitation, any RHIB) is prevented from working, no Hire shall be payable in respect of any time lost and any Hire paid in advance shall be adjusted accordingly provided always however that Hire

shall not cease in the event of the Vessel being prevented from working as aforesaid as a result of:

- (i) ~~the carriage of cargo as noted in Clause 6(c)(iii) and (iv);~~
- (ii) ~~quarantine or risk of quarantine unless caused by the Master, Officers or Crew having communication with the shore at any infected area not in connection with the employment of the Vessel without the consent or the instructions of the Charterers;~~
- (iii) ~~deviation from her Charter Party duties or exposure to abnormal risks at the request of the Charterers;~~
- (iv) ~~detention in consequence of being driven into port or to anchorage through stress of weather or trading to shallow harbours or to river or ports with bars or suffering an accident to her cargo, when the expenses resulting from such detention shall be for the Charterers' account howsoever incurred;~~
- (v) ~~detention or damage by ice;~~
- (vi) ~~any act or omission of the Charterers, their servants or agents.~~

(b) Liability for Vessel not Working. The Owners' liability for any loss, damage or delay sustained by the Charterers as a result of the Vessel being prevented from working by any cause whatsoever shall be limited to suspension of hire, except as provided in Clause 11(a)(iii).

(c) Maintenance and Drydocking. Notwithstanding Clause 13(a), the Charterers shall grant the Owners a maximum of 24 hours on hire, which shall be cumulative, per month or pro-rata for part of a month from the commencement of the Charter Period for maintenance and repairs including drydocking (hereinafter referred to as "maintenance allowance").

Where the Period of Hire stated in Box 9 is less than 3 months, the Vessel shall not be drydocked without the prior written consent of the Charterers (save where such dry-docking is necessary for the safe operation of the Vessel). The Vessel shall be drydocked at regular intervals

Where the Period of Hire stated in Box 9 is 3 months or longer, The Vessel shall ~~may~~ be drydocked at regular intervals (such intervals to be agreed between the Owners and the Charterers). The Charterers shall place the Vessel at the Owners' disposal clean of cargo, at a port (to be nominated by the Owners at a later date) having facilities suitable to the Owners for the purpose of such drydocking.

During reasonable voyage time taken in transits between such port and Area of Operation the Vessel shall be on hire and such time shall not be counted against the accumulated maintenance allowance.

Hire shall be suspended during any time taken in maintenance repairs and drydocking in excess of the accumulated maintenance allowance.

In the event of less time being taken by the Owners for repairs and drydocking or, alternatively, the Charterers not making the Vessel available for all or part of this time, the Charterers shall, upon expiration or earlier termination of the Charter Party, pay the equivalent of the daily rate of Hire then prevailing in addition to Hire otherwise due under this Charter Party in respect of all such time not so taken or made available.

Upon commencement of the Charter Period, the Owners agree to furnish the Charterers with the Owners' proposed drydocking schedule and the Charterers agree to make every reasonable effort to assist the Owners in adhering to such predetermined drydocking schedule for the Vessel.]

14. Liabilities and Indemnities

(a) Definitions

For the purpose of this Clause "Owners' Group" shall mean: the Owners, and their contractors and subcontractors, and Employees of any of the foregoing.

For the purpose of this Clause "Charterers' Group" shall mean: the Charterers, any other Government Department or Crown Body, related body or agency, and their contractors, subcontractors, co-venturers and customers (having a contractual relationship with the Charterers, always with respect to the job or project on which the Vessel is employed), and Employees of any of the foregoing.

The provisions of clause

(b) ~~Knock for Knock~~

- (i) ~~Owners.~~ Notwithstanding anything else contained in this Charter Party excepting Clauses 6(c)(iii), 9(b), 9(e), 9(f), 10(d), 11, 12(f)(iv), 14 (d), 15 (b), 18(c), 26 and 27, the Charterers shall not be responsible for loss of or damage to the property of any member of the Owners' Group, including the Vessel, or for personal injury or death of any member of the Owners' Group arising out of or in any way connected with the performance of this Charter Party, even if such loss, damage, injury or death is caused wholly or partially by the act, neglect, or default of the Charterers' Group, and even if such loss, damage, injury or death is caused wholly or partially by unseaworthiness of any vessel; and the Owners shall indemnify, protect, defend and hold harmless the Charterers from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, injury or death.
- (ii) ~~Charterers.~~ Notwithstanding anything else contained in this Charter Party excepting Clause 11, and 15(a), 16 and 26, the Owners shall not be responsible for loss of, damage to, or any liability arising out of anything towed by the Vessel, any cargo laden upon or carried by the Vessel or her tow, the property of any member of the Charterers' Group, whether owned or chartered, including their Off-shore Units, or for personal injury or death of any member of the Charterers' Group or of anyone on board anything towed by the Vessel, arising out of or in any way connected with the performance of this Charter Party, even if such loss, damage, liability, injury or death is caused wholly or partially by the act, neglect or default of the Owners' Group, and even if such loss, damage, liability, injury or death is caused wholly or partially by the unseaworthiness of any vessel; and the Charterers shall indemnify, protect, defend and hold harmless the Owners from any and against all claims, costs, expenses, actions, proceedings, suits, demands, and liabilities whatsoever arising out of or in connection with such loss, damage, liability, personal injury or death.
- (c) ~~Consequential Damages.~~
Neither party shall be liable to the other for any consequential damages whatsoever arising out of or in connection with the performance or non-performance of this Charter Party, and each party shall protect, defend and indemnify the other from and against all such claims from any member of its Group as defined in Clause 14(a).
"Consequential damages" shall include, but not be limited to, loss of use, loss of profits, shut in or loss of production and cost of insurance, whether or not foreseeable at the date of this Charter Party.
- (d) ~~Limitations.~~
Nothing contained in this Charter Party shall be construed or held to deprive the Owners or the Charterers, as against any person or party, including as against each other, of any right to claim limitation of liability provided by any applicable law, statute or convention, save that nothing in this Charter Party shall create any right to limit liability. Where the Owners or the Charterers may seek an indemnity under the provisions of this Charter Party or against each other in respect of a claim brought by a third party, the Owners or the Charterers shall seek to limit their liability against such third party.
- (e) ~~Himalaya Clause.~~
- (i) All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Charter Party or by any applicable statute, rule or regulation for the benefit of the Charterers shall also apply to and be for the benefit of the Charterers' parent, affiliated, related and subsidiary companies, any other Government Department or Crown Body, related body or agency; the Charterers' contractors, sub-contractors, coventurers and customers (having a contractual relationship with the Charterers, always with respect to the job or project on which the Vessel is employed) ; their respective Employees and their respective underwriters.
- (ii) All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Charter Party or by any applicable statute, rule or regulation for the benefit of the Owners shall also apply to and be for the benefit of the Owners'

parent, affiliated, related and subsidiary companies, the Owners' contractors, sub-contractors, the Vessel, its Master, Officers and Crew, its registered owner, its operator, its demise charterer(s), their respective Employees and their respective underwriters.

- (iii) The Owners or the Charterers shall be deemed to be acting as agent or trustee of and for the benefit of all such persons and parties set forth above, but only for the limited purpose of contracting for the extension of such benefits to such persons and parties.

(f) ~~Hazardous or Noxious Substances.~~

Notwithstanding any other provision of this Charter Party to the contrary, the Charterers shall always be responsible for any losses, damages or liabilities suffered by the Owners' Group, by the Charterers, or by third parties, with respect to the Vessel or other property, personal injury or death, pollution or otherwise, which losses, damages or liabilities are caused, directly or indirectly, as a result of the Vessel's carriage of any hazardous or noxious substances in whatever form as ordered by the Charterers, and the Charterers shall defend, indemnify the Owners and hold the Owners harmless for any expense, loss or liability whatsoever or howsoever arising with respect to the carriage of hazardous or noxious substances

15. Pollution

(a) Except as otherwise provided for in Clause 18(c)(iii), the Owners shall be liable for, and agree to indemnify, defend and hold harmless the Charterers against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of actual or threatened pollution damage and the cost of cleanup or control thereof arising from acts or omissions of the Owners or their personnel which cause or allow discharge, spills or leaks from the Vessel, except as may emanate from cargo thereon or therein.

(b) The Charterers shall be liable for and agree to indemnify, defend and hold harmless the Owners from all claims, costs, expenses, actions, proceedings, suits, demands, liabilities, loss or damage whatsoever arising out of or resulting from any other actual or threatened pollution damage, even where caused wholly or partially by the act, neglect or default of the Owners, their Employees, contractors or sub-contractors or by the unseaworthiness of the Vessel.

(c) The Charterers shall, upon giving notice to the Owners or the Master, have the right (but shall not be obliged) to place on board the Vessel and/or have in attendance at the site of any pollution or threatened incident one or more Charterers' representative to observe the measures being taken by Owners and/or national or local authorities or their respective servants, agents or contractors to prevent or minimise pollution damage and to provide advice, equipment or manpower or undertake such other measures, at Charterers' risk and expense, as are permitted under applicable law and as Charterers believe are reasonably necessary to prevent or minimise such pollution damage or to remove the threat of pollution damage.

16. Wreck Removal

If the Vessel becomes a wreck and is an obstruction to navigation and has to be removed by order of any lawful authority having jurisdiction over the area where the Vessel is placed or as a result of compulsory law, the Owners shall be liable for any and all expenses in connection with the raising, removal, destruction, lighting or marking of the Vessel.

17. Insurance

(i) The Owners shall procure and maintain in effect for the duration of this Charter Party, with reputable insurers, the insurances set forth in ANNEX "B".

Policy limits shall not be less than those indicated. Reasonable deductibles are acceptable and shall be for the account of the Owners.

(ii) The Charterers shall upon request be named as co-insured. The Owners shall upon request cause insurers to waive subrogation rights against the Charterers (as encompassed in Clause 14(e)(i)).

Co-insurance and/or waivers of subrogation shall be given only insofar as these relate to liabilities which are properly

the responsibility of the Owners under the terms of this Charter Party.

(b) The Owners shall upon request furnish the Charterers with copies of certificates of insurance which provide sufficient information to verify that the Owners have complied with the insurance requirements of this Charter Party or terminate this Charter Party.

(c) If the Owners fail to comply with the aforesaid insurance requirements, the Charterers may, without prejudice to any other rights or remedies under this Charter Party, purchase similar coverage and deduct the cost thereof from any payment due to the Owners under this Charter Party.

(d) Cancelled Insurance

(i) The Charterer shall notify the Owner in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the insurances.

(ii) The Charterer 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 Charterer shall use all reasonable endeavours to notify the Owner (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.

18. Saving of Life and Salvage

(a) The Vessel shall be permitted to deviate for the purpose of saving life at sea without prior approval of or notice to the Charterers and without loss of Hire provided however that notice of such deviation is given as soon as possible.

(b) Subject to the Charterers' consent, ~~which shall not be unreasonably withheld~~, the Vessel shall be at liberty to undertake attempts at salvage, it being understood that the Vessel shall be off-hire from the time she leaves port or commences to deviate and she shall remain off-hire until she is again in every way ready to resume the Charterers' service at a position which is not less favourable to the Charterers than the position at the time of leaving port or deviating for the salvage services.

All salvage monies earned by the Vessel shall be divided equally between the Owners and the Charterers, after deducting the Master's, Officers' and Crew's share, legal expenses, value of fuel and lubricants consumed, Hire of the Vessel lost by the Owners during the salvage, repairs to damage sustained, if any, and any other extraordinary loss or expense sustained as a result of the salvage.

The Charterers shall be bound by all measures taken by the Owners in order to secure payment of salvage and to fix its amount.

(c) ~~The Owners shall waive their right to claim any award for salvage performed on property owned by or contracted to the Charterers, always provided such property was the object of the operation the Vessel was chartered for, and the Vessel shall remain on hire when rendering salvage services to such property. This waiver is without prejudice to any right the Vessel's Master, Officers and Crew may have under any title.~~

If the Owners render assistance to such property in distress on the basis of "no claim for salvage", then, notwithstanding any other provisions contained in this Charter Party and even in the event of neglect or default of the Owners, Master, Officers or Crew:

(i) ~~The Charterers shall be responsible for and shall indemnify the Owners against payments made, under any legal rights, to the Master, Officers and Crew in relation to such assistance.~~

(ii) ~~The Charterers shall be responsible for and shall reimburse the Owners for any loss or damage sustained by the Vessel or her equipment by reason of giving such assistance and shall also pay the Owners' additional expenses thereby incurred.~~

(iii) ~~The Charterers shall be responsible for any actual or potential spill, seepage and/or emission of any pollutant howsoever caused occurring within the offshore site and any pollution resulting therefrom wheresoever it may occur and including but not limited to the cost of such measures as are reasonably necessary to prevent or mitigate pollution damage, and the Charterers shall indemnify the Owners against any liability, cost or expense arising by reason of such actual or potential spill, seepage and/or emission.~~

(iv) ~~The Vessel shall not be off hire as a consequence of giving such assistance, or effecting repairs under Clause 18(c)(ii), and time taken for such repairs shall not count against time granted under Clause 13(c).~~

(v) ~~The Charterers shall indemnify the Owners against any liability, cost and/or expense whatsoever in respect of any loss of life, injury, damage or other loss to person or property howsoever arising from such assistance.~~

19. Lien

~~Not used~~ The Owners shall have a lien upon all cargoes and equipment for all claims against the Charterers under this Charter Party and the Charterers shall have a lien on the Vessel for all monies paid in advance and not earned. The Charterers will not suffer, nor permit to be continued, any lien or encumbrance incurred by them or their agents, which might have priority over the title and interest of the Owners in the Vessel. Except as provided in Clause 14, the Charterers shall indemnify and hold the Owners harmless against any lien of whatsoever nature arising upon the Vessel during the Charter Period while she is under the control of the Charterers, and against any claims against the Owners arising out of the operation of the Vessel by the Charterers or out of any neglect of the Charterers in relation to the Vessel or the operation thereof.

Should the Vessel be arrested by reason of claims or liens arising out of her operation hereunder, unless brought about by the act or neglect of the Owners, the Charterers shall at their own expense take all reasonable steps to secure that within a reasonable time the Vessel is released and at their own expense put up bail to secure release of the Vessel.

20. Sublet and Assignment

~~The provisions of clause 27 of the Mid Tier Contract shall apply.~~

~~The (a) Charterers. The Charterers shall have the option of subletting, assigning or loaning the Vessel to any person or company not competing with the Owners, subject to the Owners' prior approval which shall not be unreasonably withheld, upon giving notice in writing to the Owners, but the original Charterers shall always remain responsible to the Owners for due performance of the Charter Party. The person or company taking such subletting, assigning or loan and their contractors and sub-contractors shall be deemed contractors of the Charterers for all the purposes of this Charter Party.~~

~~The Owners make it a condition of such consent that additional Hire shall be paid as agreed between the Charterers and the Owners in Box 29, having regard to the nature and period of any intended service of the Vessel.~~

~~(b) Owners. The Owners may not assign or transfer any part of this Charter Party without the written approval of the Charterers, which approval shall not be unreasonably withheld. Approval by the Charterers of such subletting or assignment shall not relieve the Owners of their responsibility for due performance of the part of the services which is sublet or assigned.~~

21. Substitute Vessel

The Owners shall be entitled at any time, whether before delivery or at any other time during the Charter Period, to provide a substitute vessel, subject to the Charterers' prior approval which shall not be unreasonably withheld.

22. BIMCO War Risks Clause "CONWARTIME 2004"

~~Not used~~ (a) For the purpose of this Clause, the words:

(i) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and

(ii) "War Risks" shall include any actual, threatened or reported: war; act of war; civil war; hostilities; revolution; rebellion; civil commotion; warlike operations; laying of mines; acts of piracy; acts of terrorists; acts of hostility or malicious damage; blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever); by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely

to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.

(b) ~~The Vessel, unless the written consent of the Owners be first obtained, shall not be ordered to or required to continue to or through, any port, place, area or zone (whether of land or sea), or any waterway or canal, where it appears that the Vessel, her cargo, crew or other persons on board the Vessel, in the reasonable judgement of the Master and/or the Owners, may be, or are likely to be, exposed to War Risks. Should the Vessel be within any such place as aforesaid, which only becomes dangerous, or is likely to be or to become dangerous, after her entry into it, she shall be at liberty to leave it.~~

(c) ~~The Vessel shall not be required to load contraband cargo, or to pass through any blockade, whether such blockade be imposed on all vessels, or is imposed selectively in any way whatsoever against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever, or to proceed to an area where she shall be subject, or is likely to be subject to a belligerent's right of search and/or confiscation.~~

(d) ~~(i) The Owners may effect war risks insurance in respect of the Hull and Machinery of the Vessel and their other interests (including, but not limited to, loss of earnings and detention, the crew and their Protection and Indemnity Risks), and the premiums and/or calls therefore shall be for their account.~~

~~(ii) If the Underwriters of such insurance should require payment of premiums and/or calls because, pursuant to the Charterers' orders, the Vessel is within, or is due to enter and remain within, or pass through any area or areas which are specified by such Underwriters as being subject to additional premiums because of War Risks, then the actual premiums and/or calls paid shall be reimbursed by the Charterers to the Owners at the same time as the next payment of hire is due, or upon redelivery, whichever occurs first.~~

(e) ~~If the Owners become liable under the terms of employment to pay to the crew any bonus or additional wages in respect of sailing into an area which is dangerous in the manner defined by the said terms, then the actual bonus or additional wages paid shall be reimbursed to the Owners by the Charterers at the same time as the next payment of hire is due, or upon redelivery, whichever occurs first.~~

(f) ~~The Vessel shall have liberty:~~

(i) ~~to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery, or in any other way whatsoever, which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government, body or group whatsoever acting with the power to compel compliance with their orders or directions;~~

(ii) ~~to comply with the order, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;~~

(iii) ~~to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;~~

(iv) ~~to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;~~

(v) ~~to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions.~~

(g) ~~If in accordance with their rights under the foregoing provisions of this Clause, the Owners shall refuse to proceed to the loading or discharging ports, or any one or more of them, they shall immediately inform the Charterers. No cargo shall be discharged at any alternative port without first giving the Charterers notice of the Owners' intention to do so and requesting them to nominate a safe port~~

for such discharge. Failing such nomination by the Charterers within 48 hours of the receipt of such notice and request, the Owners may discharge the cargo at any safe port of their own choice.

(h) ~~If in compliance with any of the provisions of subclauses (b) to (g) of this Clause anything is done or not done, such shall not be deemed a deviation, but shall be considered as due fulfilment of this Charter Party.~~

23. War Cancellation Clause 2004

Either party may cancel this Charter Party on the outbreak of war (whether there be a declaration of war or not)

(a) ~~between any two or more of the following countries: the United States of America; Russia; the United Kingdom; France; and the People's Republic of China, or,~~

(b) ~~between the countries stated in Box 30.~~

24. BIMCO Ice Clause for Time Charter Parties

~~Not used~~(a) ~~The Vessel shall not be obliged to force ice but, subject to the Owners' prior approval having due regard to its size, construction and class, may follow icebreakers.~~

(b) ~~The Vessel shall not be required to enter or remain in any icebound port or area, nor any port or area where lights, lightships, markers or buoys have been or are about to be withdrawn by reason of ice, nor where on account of ice there is, in the Master's sole discretion, a risk that, in the ordinary course of events, the Vessel will not be able safely to enter and remain at the port or area or to depart after completion of loading or discharging. If, on account of ice, the Master in his sole discretion considers it unsafe to proceed to, enter or remain at the place of loading or discharging for fear of the Vessel being frozen in and/or damaged, he shall be at liberty to sail to the nearest ice free and safe place and there await the Charterers' instructions.~~

(c) ~~Any delay or deviation caused by or resulting from ice shall be for the Charterers' account and the Vessel shall remain on hire.~~

(d) ~~Any additional premiums and/or calls required by the Vessel's underwriters due to the Vessel entering or remaining in any icebound port or area, shall be for the Charterers' account.~~

25. Epidemic/Fever

~~Not used~~The Vessel shall not be ordered to nor bound to enter without the Owners' written permission any place where fever or epidemics are prevalent or to which the Master, Officers and Crew by law are not bound to follow the Vessel.

Notwithstanding the terms of Clause 13, Hire shall be paid for all time lost including any lost owing to loss of or sickness to the Master, Officers, Crew or passengers or to the action of the Crew in refusing to proceed to such place or to be exposed to such risks.

26. General Average and New Jason Clause

General Average shall be adjusted and settled in London unless otherwise stated in Box 31, according to York-Antwerp Rules, 1994.

Hire shall not contribute to General Average. Should adjustment be made in accordance with the law and practice of the United States of America, the following provision shall apply:

"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or owners of the cargo shall contribute with the Owners in General Average to the payment of any sacrifices, loss or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo.

If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to the Owners before delivery".

27. Both-to-Blame Collision Clause

If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the

Master, mariner, pilot or the servants of the Owners in the navigation or the management of the Vessel, the Charterers will not be liable to indemnify the Owners, and the Owners will hold harmless and indemnify the Charterers against all for any loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represent loss of or damage to, or any claim whatsoever of the owners of any goods or personnel carried under this Charter Party paid or payable by the other or non-carrying ship or her owners to the owners of the said goods and set-off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any ship or ships or objects other than or in addition to the colliding ships or objects are at fault in respect of a collision or contact.

28. Health and Safety

The Owners shall comply with and adhere to all applicable international, national and local regulations pertaining to health and safety, and such Charterers' instructions as may be appended hereto. Clause 33.4 of the Mid Tier Contract also applies.

29. Drugs and Alcohol Policy

The Owners undertake that they have, and shall maintain for the duration of this Charter Party, a policy on Drugs and Alcohol Abuse applicable to the Vessel (the "D & A Policy") that meets or exceeds the standards in the OCIMF Guidelines for the Control of Drugs and Alcohol Onboard Ship 1995 as amended from time to time.

The Owners shall exercise due diligence to ensure that the D & A Policy is understood and complied with on and about the Vessel. An actual impairment, shall not in and itself mean that the Owners have failed to exercise due diligence.

30. Taxes

Within the day rate the Owners shall be responsible for the taxes stated in Box 32 and the Charterers shall be responsible for all other taxes.

In the event of change in the Area of Operation or change in local regulation and/or interpretation thereof, resulting in an unavoidable and documented change of the Owners' tax liability after the date of entering into the Charter Party or the date of commencement of employment, whichever is the earlier, Hire shall be adjusted accordingly.

Clause 35 of the Mid Tier Contract also applies.

31. Early Termination

(a) At Charterers' Convenience. The Charterers may terminate this Charter Party at any time in accordance with Clause 14 of the Mid Tier Contract. The reasons for termination set out in this clause 31 will be additional reasons for termination as set out in Clause 14 of the Mid Tier Contract. Upon such termination, Charterers shall pay the compensation for early termination stated in Box 13 and the demobilisation charge stated in Box 15, as well as Hire or other payments due under the Charter Party up to the time of termination. Should Box 13 be left blank, Clause 31(a) shall not apply.

(b) For Cause. If either party becomes informed of the occurrence of any event described in this Clause that party shall so notify the other party promptly in writing and in any case within 3 days after such information is received. If the occurrence has not ceased within 3 days after such notification has been given, this Charter Party may be terminated by either party, without prejudice to any other rights which either party may have, under any of the following circumstances:

- (i) Requisition. If the government of the state of registry and/or the flag of the Vessel, or any agency thereof, requisitions for hire or title or otherwise takes possession of the Vessel during the Charter Period.
- (ii) Confiscation. If any government, individual or group, whether or not purporting to act as a government or on behalf of any government, confiscates, requisitions, expropriates, seizes or otherwise takes possession of the Vessel during the Charter Period (other than by way of arrest for the purpose of obtaining security).
- (iii) Bankruptcy. In the event of an order being made or resolution passed for the administration, winding up, dissolution, liquidation or bankruptcy of either party (otherwise

than for the purpose of reconstruction or amalgamation) or if a receiver is appointed or if it suspends payment or ceases to carry on business or any such analogous event occurs.

- (iv) Loss of Vessel. If the Vessel is lost or becomes a constructive total loss, or is missing unless the Owners promptly state their intention to provide, and do in fact provide, within 14 days of the Vessel being lost or missing, at the port or place from which the Vessel last sailed (or some other mutually acceptable port or place) a substitute vessel pursuant to Clause 21. In the case of termination, Hire shall cease from the date the Vessel was lost or, in the event of a constructive total loss, from the date of the event giving rise to such loss. If the date of loss cannot be ascertained or the Vessel is missing, payment of Hire shall cease from the date the Vessel was last reported.

- (v) Breakdown. If, at any time during the term of this Charter Party a breakdown of the Owners' equipment or Vessel (including, without limitation, any RHIB) results in the Owners being unable to perform their obligations hereunder with respect to 5% or more of the voyages undertaken or to be undertaken in any 3 month rolling period for a period exceeding that stated in Box 33 and have not initiated reasonable steps within 48 hours to remedy the non-performance or provided a substitute vessel pursuant to Clause 21.

- (vi) Force Majeure. If a force majeure condition as defined in Clause 32 prevents or hinders the performance of the Charter Party for a period exceeding 15 consecutive days from the time at which the impediment causes the failure to perform if notice is given without delay or, if notice is not given without delay, from the time at which notice thereof reaches the other party.

- (c) For Owners Default. This Charter Party may be terminated by the Charterer, without prejudice to any other rights which the Charterer may have, under any of the following circumstances:

- (vii) Default. If the Owners are in breach of their obligations under this Charter Party and fail to remedy such breach within 5 Working Days of the earlier of (i) written notice of such breach by the Charterer or (ii) the Owners becoming aware of such breach.

- (viii) Repudiatory Breach. If either party is the Owners are in repudiatory breach of its their obligations hereunder.

Termination as a result of any of the above mentioned causes shall not relieve the Charterers of any obligation for Hire and any other payments.

32. Force Majeure

Neither party shall be liable for any loss, damage or delay due to any of the following force majeure events and/or conditions to the extent the party invoking force majeure is prevented or hindered from performing any or all of their obligations under this Charter Party, provided they have made all reasonable efforts to avoid, minimize or prevent the effect of such events and/or conditions:

- (a) acts of God;
- (b) any Government requisition, control, intervention, requirement or interference (excluding this Charter);
- (c) any circumstances arising out of war, threatened act of war or warlike operations, acts of terrorism, sabotage or piracy, or the consequences thereof;
- (d) riots, ~~civil commotion~~, blockades or embargoes;
- (e) epidemics;
- (f) earthquakes, landslides, floods or other extraordinary weather conditions;
- (g) strikes, lockouts or other industrial action, unless limited to the Employees of the party seeking to invoke force majeure;
- (h) fire, accident, explosion except where caused by negligence of the party seeking to invoke force majeure;
- (i) any other similar cause beyond the reasonable control of either party excluding mechanical breakdown.

The party seeking to invoke force majeure shall notify the other party in writing within 2 working days of the occurrence of any such event/condition.

To the extent that the Vessel is required to operate or the Services are to be provided in a place where civil commotion is occurring or is likely to occur, the Owners and the Charterers shall consult with each other in good faith and shall take such steps as may be open to them to mitigate the effects of such civil commotion and to carry on the Charter Party in a safe manner. Notwithstanding the foregoing, the parties may agree in writing that the occurrence of a specific civil commotion event has constituted a force majeure event for the purposes of this clause.

33. Confidentiality

All information or data provided or obtained in connection with the performance of this Charter Party is and shall remain confidential and not be disclosed without the prior written consent of the other party. The parties shall use their best efforts to ensure that such information shall not be disclosed to any third party by any of their subcontractors, Employees and agents. This Clause shall not apply to any information or data that has already been published or is in the public domain.

All information and data provided by a party is and shall remain the property of that party. The provisions of clause 19 of the Mid Tier Contract shall apply.

34. BIMCO Dispute Resolution Clause

The provisions of clause 39 of the Mid Tier Contract shall apply.

* (a) — This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.

The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement. Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator. In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

*(b) — This Charter Party shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Charter Party shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.

In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.

*(c) — This Charter Party shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Charter Party

shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.

(d) — Notwithstanding (a), (b) or (c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Charter Party.

In the case of a dispute in respect of which arbitration has been commenced under (a), (b) or (c) above, the following shall apply:

- (i) — Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.
- (ii) — The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.
- (iii) — If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.
- (iv) — The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.
- (v) — Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.
- (vi) — Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.
- (vii) — The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)

If Box 34 in PART I is not appropriately filled in, subclause 34(a) of this Clause shall apply. Sub clause (d) shall apply in all cases.

** Sub clauses 34(a), 34(b) and 34(c) are alternatives; indicate alternative agreed in Box 34.*

35. Notices

(a) — All notices given by either party or their agents to the other party or their agents in accordance with the provisions of this Charter Party shall be in writing.

(b) — For the purposes of this Charter Party, "in writing" shall mean any method of legible communication. A notice may be given by any effective means including, but not limited to, cable, telex, fax, e mail, registered or recorded mail, or by personal service.

The provisions of clause 29 of the Mid Tier Contract shall apply.

36. Headings

The headings of this Charter Party are for identification only and shall not be deemed to be part hereof or be taken into consideration in the interpretation or construction of this Charter Party.

37. Severance

If by reason of any enactment or judgement any provision of this Charter Party shall be deemed or held to be illegal, void or unenforceable in whole or in part, all other provisions of this Charter Party shall be unaffected thereby and shall remain in full force and effect. The provisions of Special Term [xx] of the Mid Tier Contract shall apply.

38. Entire Agreement

~~This Charter Party, including all Annexes referenced herein and attached hereto, is the entire agreement of the parties, which supersedes all previous written or oral understandings and which may not be modified except by a written amendment signed by both parties.~~

The provisions of Special Term [xx] of the Mid Tier Contract shall apply.

VESSEL SPECIFICATION

1. General

- (a) Owner: Name: _____
Address: _____
- (b) Operator: Name: _____
Address: _____
- (c) Vessel's Name: _____ Builder: _____
- (d) Year built: _____
- (e) Type: _____
- (f) Classification and Society: _____
- (g) Flag: _____
- (h) Date of next scheduled drydocking: _____

2. Performance

- (a) Certified Bollard Pull (Tonnes) _____
- (b) Speed/Consumption (Non-Towing)
(Approx. Daily Fuel Consumption) (Fair Weather)
Max Speed: _____ Kts (app.) _____ Tonnes
Service Speed: _____ Kts (app.) _____ Tonnes
Standby (main engines secured) Tonnes _____
- (c) Approx. Towing/Working Fuel Consumption
Engine Power 100% _____ Tonnes
- (d) Type(s) and Grade(s) of Fuel Used: _____

3. Dimensions and Capacities/Discharge Rates

- (a) L.O.A. (m): _____ Breadth (m): _____ Depth (m): _____
Max Draught (m): _____
- (b) Deadweight (metric tons): _____
- (c) * Cargo Fuel max (m3): _____ Discharge Rate /hr at _____ head
- (d) * Drill Water max (m3): _____ /hr at _____ head
- (e) Potable Water (m3): _____ /hr at _____ head
- (f) Dry Bulk (cu.m): _____ in Tanks _____ /hr at _____ head
- (g) Liquid Mud (cu.m): _____ /hr at _____ head
(max. SG) _____
State type of recirculation system i.e.
mechanical agitation, centrifugal pumps etc. _____
- (h) Cargo Deck Area (m2): _____ Capacity (m.t.): _____
Length (m) x Breadth (m): _____
Load Bearing Capacity _____
- (i) Heavy Weight Brine (cu.m): _____
(max. SG) _____ /hr at _____ head
*Multipurpose Tanks yes/no: _____

4. Machinery

- (a) BHP Main Engines: _____
- (b) Engine Builder: _____
- (c) Number of Engines and Type: _____
- (d) Generators: _____

- (e) Stabilisers: _____
- (f) Bow Thruster(s): _____
- (g) Stern Thruster(s): _____
- (h) Propellers/Rudders: _____
- (i) Number and Pressure Rating of Bulk Compressors: _____
- (j) Fuel Oil Metering System: _____

5. Towing and Anchor Handling Equipment

- (a) (i) Stern Roller (Dimensions): _____
- (ii) Anchor Handling/Towing Winch: _____
- (iii) Rig Chain Locker Capacity (linear feet of
3 in. Chain): _____
- (iv) Tugger Winches: _____
- (v) Chain Stopper Make and Type: _____
- (b) (i) Towing Wire: _____
- (ii) Spare Towing Wire: _____
- (iii) Work Wire: _____
- (iv) Spare Work Wire: _____
- (v) Other Anchor Handling Equipment
(e.g. Pelican Hooks, Shackles, Stretchers etc.): _____

6. Radio and Navigation Equipment

- (a) Radios
Single Side Band: _____
VHF: _____
Satcom: _____
- (b) Electronic Navigation Equipment: _____
- (c) Gyro: _____
- (d) Radar: _____
- (e) Autopilot: _____
- (f) Depth Sounder: _____

continued

7. Fire Fighting Equipment

- (a) Class (FF1, FF2, FF3, other): _____
- (b) Fixed: _____
- (c) Portable: _____

8. Accommodation

- (a) Crew: _____ (b) Passengers: _____

(b) Joystick: _____

(c) Other: _____

11. Standby/Survivor Certificate Yes/No

Nos: _____

9. Galley

- (a) Freezer Space (m3): _____
- (b) Cooler (m3): _____

10. Additional Equipment

- (a) Mooring Equipment: _____

ANNEX "B" to Time Charter Party for Offshore Service Vessels
CODE NAME: SUPPLYTIME 2005
INSURANCE

Insurance policies (as applicable) to be procured and maintained by the Owners under Clause 17:

- (1) Marine Hull Insurance. Hull and Machinery Insurance shall be provided with limits equal to those normally carried by the Owners for the Vessel.
- (2) Protection and Indemnity (Marine Liability) Insurance.
Protection and Indemnity (P&I) or Marine Liability Insurance with coverage equivalent to the cover provided by members of the International Group of Protection and Indemnity Associations with a limit of cover no less than USD for any one event. The cover shall include liability for collision and damage to fixed and floating objects to the extent not covered by the insurance in (1) above.
- (3) General Third Party Liability Insurance. - To the extent not covered by the insurance in (2) ABOVE, Coverage shall be for:
Bodily Injury per person
Property Damage per occurrence.
This shall cover all of the Charterers' personnel and agents on board and their property.
- (4) Workmen's Compensation and Employer's Liability Insurance for Employees.
To the extent not covered in the insurance in (2) above, covering Owners' employees and other persons for whom Owners are liable as employer pursuant to applicable law for statutory benefits as set out and required by local law in area of operation or area in which the Owners may become legally obliged to pay benefits.
- (5) Comprehensive General Automobile Liability Insurance.
Covering all owned, hired and non-owned vehicles, coverage shall be for:
Bodily Injury According to the local law.
Property Damage In an amount equivalent to _____
single limit per occurrence.
- (6) Such other insurances as may be agreed.

| FOR USE BY FINANCE TEAM ONLY | |
|-------------------------------|---------------------|
| Category: | VAT Code |
| Cost Centre Code: | Objective: |
| Account and Sub Account Code: | Project Code: |
| Requisition Raised By: | Requisition Number: |
| Purchase Order Number: | Receipt Number: |

Schedule 32 (Background Checks)

1. When you should use this Schedule

This Schedule should be used where Supplier Staff must be vetted before working on Contract.

2. Definitions

“Relevant Conviction” means any conviction listed in Annex **1** to this Schedule.

3. Relevant Convictions

1.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

1.2 Notwithstanding Paragraph The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval. for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

1.2.1 carry out a check with the records held by the Department for Education (DfE);

1.2.2 conduct thorough questioning regarding any Relevant Convictions; and

1.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

Annex 1 – Relevant Convictions

- Any convictions relating to safeguarding (including but not limited to offences involving violence, sex misconduct, drugs and harassment).
- Any convictions relating to maritime activities (including environmental offences).
- Any convictions for hate and terror offences.
- Any convictions relating to human trafficking and/or modern slavery.

Schedule 36 (Intellectual Property Rights)

| | |
|---|----------|
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| 6. Open Licence Publication | 8 |
| 7. Patents | 10 |

Part B: Intellectual Property Rights (ICT Services)

Option 1

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 (Intellectual Property Rights) (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. 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 Use of Supplier Existing IPRs and Third Party IPRs and Licences in respect of Supplier Existing IPR that is not COTS Software, the Supplier must, within 10 Working Days notify the Buyer:
 - 1.5.1. the specific Intellectual Property Rights the Buyer has not received licences to; and
 - 1.5.2. the Deliverables affected.
- 1.6. For the avoidance of doubt:
 - 1.6.1. except as provided for in Paragraphs enter into a direct arrangement with the Supplier in the form set out in Annex 2; or or if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 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 The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, as if:, all the following conditions are met: and 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;, the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs Use of Supplier Existing IPRs and Third Party IPRs and Licences in respect of Supplier Existing IPR that is not COTS Software;
 - 1.6.2. the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:
 - 1.6.2.1. Sections 55 and 56 of the Patents Act 1977;
 - 1.6.2.2. section 12 of the Registered Designs Act 1949; or
 - 1.6.2.3. 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 Buyer, 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. The Supplier must deliver to the Buyer:

- 2.2.1. the Specially Written Software;
- 2.2.2. any software elements of the New IPR;
- 2.2.3. relevant Documentation; and
- 2.2.4. all related Software Supporting Materials,

within seven (7) days of:

- 2.2.5. either:
 - 2.2.5.1. initial release or deployment; or
 - 2.2.5.2. if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone; and
- 2.2.6. each subsequent release or deployment of the Specially Written Software and any software elements of the New IPR.

2.3. Where the Supplier delivers materials to the Buyer under Paragraph The Supplier must deliver to the Buyer:, it must do so in a format specified by the Buyer. Where the Buyer specifies the material is to be delivered on media, the Buyer becomes the owner of the media containing the material on delivery.

2.4. 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. Use of Supplier Existing IPRs and Third Party IPRs

3.1. The Supplier must not:

- 3.1.1. embed Supplier Existing IPRs or Third Party IPRs in a Deliverable;
- 3.1.2. provide any Deliverable that requires Supplier Existing IPRs or Third Party IPRs to use that Deliverable for any of the purposes set out in Paragraph For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:; or
- 3.1.3. 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:

- 3.1.4. 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;
- 3.1.5. in the case of Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software all the following conditions are met:
 - 3.1.5.1. 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
 - 3.1.5.2. the Buyer has not (in its absolute discretion) rejected those licence terms within ten (10) Working Days of the date on which they were provided to the Buyer;
- 3.1.6. in the case of Third Party IPRs that are not COTS Software, the Buyer provides approval under Paragraph 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; and one of the following conditions is met:

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

3.1.6.2. if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 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 The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, as if:, 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.

3.2. 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:

3.2.1. maintained or supported by the developer; or

3.2.2. made commercially available.

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

- 4.1. Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where:
 - 4.1.1. the Supplier Existing IPR that is not COTS Software is embedded in the Deliverable;
 - 4.1.2. 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 For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:; or
 - 4.1.3. the Deliverable is a customisation or adaptation of Supplier Existing IPR that is not COTS Software.
- 4.2. The categories of Supplier Existing IPR that is not COTS Software set out in Paragraph Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: are mutually exclusive.
- 4.3. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual,

royalty-free, irrevocable, transferable, sub-licensable,
worldwide licence that:

- 4.3.1. in the case of Supplier Existing IPR that is not COTS Software embedded in a Deliverable:
 - 4.3.1.1. has no restriction on the identity of any transferee or sub-licensee;
 - 4.3.1.2. is sub-licensable for any of the purposes set out in Paragraph For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are;;
 - 4.3.1.3. 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 For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are;; and
- 4.3.2. 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:
 - 4.3.2.1. 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 For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are;;

4.3.2.2. 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 2; 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

4.3.2.3. 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 2; 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);

4.3.3. includes a perpetual, royalty-free, non-exclusive licence to use, copy and adapt any Know-How, trade secrets or Confidential Information of the Supplier contained within any Deliverables; and

4.3.4. is subject to the restrictions that:

- 4.3.4.1. 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;
- 4.3.4.2. any transferee or sublicensee of the Supplier Existing IPR Licence must either:
 - (a) enter into a direct arrangement with the Supplier in the form set out in Annex 2; or
 - (b) enter 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).
- 4.4. For the purposes of Paragraphs Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph Use of Supplier Existing IPRs and Third Party IPRs, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: and The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:
 - 4.4.1. to allow the Buyer or any End User to receive and use the Deliverables;
 - 4.4.2. to commercially exploit (including by publication under Open Licence) the New IPR, Specially Written Software and New IPR Items; and
 - 4.4.3. 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.

5. Licences granted by the Buyer

- 5.1. The Buyer grants the Supplier a licence to the New IPR, Specially Written Software and Buyer Existing IPR that:
 - 5.1.1. is non-exclusive, royalty-free and non-transferable;
 - 5.1.2. is sub-licensable to any Sub-contractor where

- 5.1.2.1. 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
 - 5.1.2.2. the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;
 - 5.1.3. allows the Supplier and any sub-licensee to use, copy and adapt any Buyer Existing IPR, New IPR and Specially Written Software for the purpose of fulfilling its obligations under this Contract; and
 - 5.1.4. terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.
- 5.2. When the licence granted under Paragraph The Buyer grants the Supplier a licence to the New IPR, Specially Written Software and Buyer Existing IPR that: terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph is sub-licensable to any Sub-contractor where:
- 5.2.1. immediately cease all use of the Buyer Existing IPR, New IPR and Specially Written Software (including the Government Data within which the Buyer Existing IPR or New IPR may subsist);
 - 5.2.2. either:
 - 5.2.2.1. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR, New IPR, Specially Written Software and the Government Data; or
 - 5.2.2.2. if the Buyer has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Buyer Existing IPR, the New IPR, Specially Written Software and the Government Data (as the case may be); and
 - 5.2.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR, New IPR, Specially Written Software and Government Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

6. Open Licence Publication

- 6.1. Subject to Paragraph The Supplier may within ten (10) Working Days of a Buyer Open Licence Request under

Paragraph The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence Publication Material**) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**). request in writing that the Buyer excludes all or part of; the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items, including the:

6.1.1. Specially Written Software;

6.1.2. the software parts of the New IPR Items; and

6.1.3. the Software Supporting Materials.

6.2. The Supplier must create all Specially Written Software, software elements of New IPR and Software Supporting Materials in a format (whether it is provided in any other format or not):

6.2.1. suitable for publication by the Buyer as Open Licence; and

6.2.2. based on open standards (where applicable).

6.3. The Supplier warrants that in developing the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials it has used reasonable endeavours to ensure that:

6.3.1. publication by the Buyer will not:

6.3.1.1. allow a third party to use them in any way that could reasonably be foreseen to compromise the operation or security of the Specially Written Software, New IPRs, the Buyer System or the Supplier System;

6.3.1.2. cause any harm or damage to any party using them; or

6.3.1.3. breach the rights of any third party; and

6.3.2. they do not contain:

6.3.2.1. any Malicious Software; or

6.3.2.2. any material which would bring the Buyer into disrepute if published.

- 6.4. The Supplier must not include in the Specially Written Software, the software parts of the New IPR Items and the Software Supporting Materials provided for publication by Open Licence any Supplier Existing IPRs unless the Supplier consents to:
 - 6.4.1. their publication by the Buyer under Open Licence; and
 - 6.4.2. their subsequent licence and treatment as Open Licence under the terms of the licence chosen by the Buyer.
- 6.5. The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence Publication Material**) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**).
- 6.6. The Supplier may within ten (10) Working Days of a Buyer Open Licence Request under Paragraph The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence Publication Material**) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**). request in writing that the Buyer excludes all or part of:
 - 6.6.1. the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials; or
 - 6.6.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph The Supplier must not include in the Specially Written Software, the software parts of the New IPR Items and the Software Supporting Materials provided for publication by Open Licence any Supplier Existing IPRs unless the Supplier consents to:,
 - 6.6.3. from Open Licence publication.
- 6.7. The Supplier's request under Paragraph The Supplier may within ten (10) Working Days of a Buyer Open Licence Request under Paragraph The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence**

Publication Material) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**). request in writing that the Buyer excludes all or part of: must include the Supplier's assessment of the impact the Buyer's agreeing to the request would have on its ability to publish other the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials Items under an Open Licence.

- 6.8. Any decision to Approve any such request from the Supplier under Paragraph The Supplier may within ten (10) Working Days of a Buyer Open Licence Request under Paragraph The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence Publication Material**) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**). request in writing that the Buyer excludes all or part of: shall be at the Buyer's sole discretion, not to be unreasonably withheld or delayed, or made subject to unreasonable conditions.

7. Patents

- 7.1. Where a patent owned by the Supplier is infringed by the use of the Specially Written Software or New IPR by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

ANNEX 1: NEW IPR AND SPECIALLY WRITTEN SOFTWARE

| Name of New IPR | Details |
|-----------------|---------|
| | |
| | |

| Name of Specially Written Software | Details |
|------------------------------------|---------|
| | |
| | |

ANNEX 2: FORM OF CONFIDENTIALITY UNDERTAKING

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [date] 20

BETWEEN:

- (1) [insert name] of [insert address] (the “**Sub-licensee**”); and
- (2) [insert name] of [insert address] (the “**Supplier**” and together with the Supplier, the “**Parties**”).

WHEREAS:

- (A) [insert name of Buyer] (the “**Buyer**”) and the Supplier are party to a contract dated [insert date] (the “**Contract**”) for the provision by the Supplier of [insert brief description of services] 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:

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

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

- 1.3.1 treat all Confidential Information as secret and confidential;
- 1.3.2 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);
- 1.3.3 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;
- 1.3.4 not transfer any of the Confidential Information outside the United Kingdom;
- 1.3.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 1.3.6 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
- 1.3.7 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

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

1.4.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and

1.4.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and

1.4.3 have agreed to terms similar to those in this Agreement.

1.5 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.

1.6 Before making a disclosure pursuant to Clause 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., the Sub-licensee shall, if the circumstances permit:

1.6.1 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

1.6.2 ask the court or other public body to treat the Confidential Information as confidential.

4 General

1.7 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.

1.8 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:

1.8.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;

- 1.8.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
- 1.8.3 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.
- 1.9 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.
- 1.10 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.
- 1.11 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).
- 1.12 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.
- 1.13 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 1.14 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

- 1.15 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 Any Notice:.
- 1.16 Any Notice:
 - 1.16.1 if to be given to the Supplier shall be sent to:
[Address]
Attention: [Contact name and/or position, e.g. “The Finance Director”]

1.16.2 if to be given to the Sub-licensee shall be sent to:

[Name of Organisation]

[Address]

Attention: []

6 Governing law

1.17 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.

1.18 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 on the date which appears at the head of page 1.

For and on behalf of [name of Supplier]

Signature:

Date:

Name:

Position:

For and on behalf of [name of Sub-licensee]

Signature:

Date:

Name:

Position: