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Department for Work and Pensions

Schedule 1: Definitions

SCHEDULE 1

DEFINITIONS

In this Agreement where the context admits:

“Acceptance” means the acceptance by the AUTHORITY of a milestone or deliverable in accordance with Schedule 10 (Acceptance) and “Accept” shall be construed accordingly;

“Acceptance Criteria” means acceptance criteria defined in accordance with the procedures specified in Schedule 10 (Acceptance);

“Acceptance Procedures” means acceptance procedures referred to in Schedule 10 (Acceptance);

“Acceptance Testing” has the meaning given to that phrase in Schedule 10 (Acceptance) and includes the conduct of Operational Acceptance Tests, User Acceptance Tests and other tests;

“Acceptance Test Period” means a period identified as such in accordance with Schedule 10 (Acceptance), during which Acceptance Tests will take place;

“Acceptance Test Plans” means the plans for the conduct of Acceptance Tests prepared by the Parties in accordance with Schedule 10 (Acceptance), as appropriate;

“Acceptance Test Scripts” mean the scripts prepared by the Parties for Acceptance Tests in accordance with Schedule 10 (Acceptance), as appropriate;

“Acceptance Tests” and “Tests” each mean the acceptance tests agreed between the AUTHORITY and the CONTRACTOR in accordance with the procedures specified in Schedule 10 (Acceptance), and includes Operational Acceptance Tests, User Acceptance Tests and other tests;

“Accreditation Document Set” or “ADS” means the document set more particularly described in HMG Infosec Standard Number 2;

“Accreditor” means such person as the CSIA may specify from time to time to undertake security accreditation;

“Action Plan” means the activities that are established in response to the Benchmarking Report;

“Ad-Hoc Project Services” means those Services which the AUTHORITY may request, through the Change Control Procedure, the CONTRACTOR to perform from time to time in accordance with this Agreement;

“Alert” means a sound or visual signal that indicates to the NOC that some predefined event has occurred or some error condition has occurred;

“Alert Response” means a set of predefined actions performed by the NOC in response to an Alert;

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“All Material” means all Data, Documentation, Source Code and procedures used in the discharge of the CONTRACTOR’s responsibilities under this Agreement;

“Application” means any software developed or used in the delivery of the Gateway;

“Application Release” means a Release which may include the following:

- (A) application code changes;
- (B) implementation of new or upgrades to existing application or operational software packages;
- (C) integration of additional interfaces to or from the Gateway; and
- (D) changes of infrastructure or additions to the infrastructure of the Gateway;

“Asset Management” means the introduction, supervision, control, removal and modification of any Asset used in the Services;

“Asset Register” means a complete electronic register of all Assets, including the DSL;

“Assets” means all the hardware, software, networks, Data, Documentation and furnishings used by the CONTRACTOR in the provision of the Services from time to time;

“Asset Risk Management Report” means a report in respect of Asset Management, signed off by an independent authority, addressing matters including relevant hazards, problems identified, current control measures in place, hierarchy of control measures followed, assessment of risk (including a risk rating), any control measures required, any health surveillance required and suggested further review dates, as required by the AUTHORITY in accordance with Schedule 8 (Asset Management) of the Agreement;

“Assigned Employees” means any Employees whose employment transfers to the Replacement Contractor or the AUTHORITY pursuant to or by virtue of the Transfer Regulations as a result of the termination or expiry of the Services or part thereof;

“Assignment Contract” means the Government Services Catalogue Services Order relating to the development of the Gateway including the provision of Gateway live services from the AUTHORITY to CONTRACTOR dated July 2001;

“Authentication Engine” has the meaning given to it in paragraph 2.3 of Schedule 2 (Services);

“AUTHORITY” means the Minister for the Cabinet Office as represented by the Cabinet Office’s e-Government Unit;

“AUTHORITY Data” means all data, information, text, drawings, diagrams, images or sounds (together with any Database made up of any of the foregoing) which are embodied in any electronic or tangible medium, and which are supplied or in respect of which access is granted to the CONTRACTOR by the AUTHORITY, in relation to the provision of the Services or which the CONTRACTOR is required to generate, collect, process, store or transmit for the AUTHORITY under this Agreement;

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“AUTHORITY Documentation” means any documentation and printed or viewable materials provided by the AUTHORITY to the CONTRACTOR and which is used by the CONTRACTOR to provide the Services;

“AUTHORITY Employees” means all and any individuals who are employed by the AUTHORITY (or any personnel of the AUTHORITY’s incumbent services provider) any time before the Go Live Date and who at any time prior to such date are concerned with all or any of the Services or any part thereof;

“AUTHORITY Premises” means any land or buildings utilised in connection with the delivery or receipt of the Services owned or controlled by the AUTHORITY, the AUTHORITY’s Customers or the Government;

“AUTHORITY Software” means the Specially Written Software and software, the Intellectual Property Rights in which are owned by the AUTHORITY and which is used by the CONTRACTOR to provide the Services;

“AUTHORITY’s Customer(s)”, “AUTHORITY Customer(s)” and “Customers” all mean the Government departments, strategic investors, local authorities, independent vendors, public sector bodies and their IT service providers who utilise the Gateway, the Gateway Functions or any of the Services in the provision of online services to citizens and businesses;

“AUTHORITY’s Responsibilities” and “AUTHORITY Responsibilities” mean the responsibilities of the AUTHORITY set out in Schedule 19 and elsewhere in this Agreement;

“AUTHORITY Third Party” means contractors, partners or subcontractors of the AUTHORITY that are necessary for the AUTHORITY to perform its obligations under this Agreement;

“AUTHORITY Third Party Software” means software used in the provision of the Services the Intellectual Property Rights in which are owned by a third party and licensed to the AUTHORITY as further set out in clause 13.2 of the Agreement;

“Automated Test Framework” means the application that is used to test the Gateway set of products in an automated way;

“Availability” means the ability of the component or Services to perform its required function at a stated instance or over a stated period of time;

“Availability Management” means the process used to optimise the capability of the IT infrastructure, services and supporting organisations to deliver a sustained level of Availability to satisfy the business objectives;

“Benchmark Baseline” means the initial reference point for comparing relative Benchmarking Prices and relative Benchmarking Quality or value delivered;

“Benchmarked Services” means the Services that the AUTHORITY elects to include in the Benchmarking;

“Benchmarking” means the process of comparing the Services (including the Services Levels) against Equivalent Services, conducted in accordance with Schedule 9 (Benchmarking). This process will involve Benchmarking Prices and Benchmarking

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Quality, to establish whether the services and the Charges for the Services are provided in accordance with Best Practice and are, and will remain, competitive with services provided by other suppliers and the charges levied for such services;

“Benchmarking Notice” has the meaning given to that term in paragraph 2.2 of Schedule 9 (Benchmarking);

“Benchmarking Prices” means the prices that result from the comparison sample;

“Benchmarking Quality” means the assessment of value that result from the comparison sample;

“Benchmarking Report” means the written report produced by the Trusted Third Party following conclusion of the Benchmarking exercise and which shall comply with paragraph 7 of Schedule 9 (Benchmarking);

“Benchmark Manager” means the representatives who will be authorised to carry out the Parties duties involved with the Benchmarking exercise;

“Benchmark Period” - has the meaning given to that term in paragraph 4.9 of Schedule 9 (Benchmarking);

“Best Practice” means the exercise of reasonable skill, care, prudence, efficiency, foresight and a timeliness which would be expected from a suitable skilled, trained and experienced person or company, including compliance at all times with the standards, requirements and attributes set out in paragraphs 1.2(f) and 1.2(g) of Schedule 2 (Services);

“British Standard” means the set of standards published by the British Standards Institute;

“BS 15000-1” means the British Standard for IT service management, providing recommendations for IT service management that is relevant for those responsible for initiating, implementing or maintaining IT service management;

“BS 15000-2” means the British Standard for IT service management which describes best practice for IT service management processes within the scope of BS 15000-1 (see ISO 20000);

“BS5839” means the British Standard for fire detection and alarm systems for buildings including a code of practice for system design, installation and servicing;

“BS6266” means the British Standard for fire protection for electronic equipment installations;

“BS7799” means the British Standard for information security management (see ISO & ISO7799);

“BSA” means the British Software Association;

“Building Management System” or “BMS” means a system that controls the security of, access to and environment of a building;

“C & AG” has the meaning given to that term in clause 32.5;

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“Cabinet Office Security Policy” means the document setting out the Cabinet Office security policy;

“Capacity Management and Planning” has the meaning set out in paragraph 3.8(b) of Schedule 2 (Services);

“Capacity Report” means a report detailing the available capacity relating to the Services and comparing the available capacity against the used capacity (past, aggregate and average);

“CCN 8 Transition Work Package” means Contract Change Note 8 to the Assignment Contract for the provision of services in respect of the Gateway issued under S-CAT terms and conditions agreed between the AUTHORITY and the CONTRACTOR;

“Central Sponsor for Information Assurance” or “CSIA” means the unit of the UK Government's organisation which works with partners in the public and private sectors to help safeguard the nation's IT and telecommunications services;

“CESG” means the Communications Electronics Security Group;

“Change” means a variation to the Schedule or to the scope, content or manner of provision of the Services (including Operational Changes and Contract Changes);

“Change Approval Board” or “CAB” means the body described at paragraph 6.1 of Schedule 24 (Change Control);

“Change Control Procedure” means the procedure followed by the AUTHORITY or the CONTRACTOR to effect a Change and which is described in Schedule 24 (Change Control);

“Change Management” means the process by which Changes are managed as set out at paragraph 3.4 of Schedule 2;

“Change Request” means the request for a Change as set out at paragraph 4 of Schedule 24 (Change Control), including its formal electronic record and the associated actions and approvals;

“Change Request Form” means the document on which a Change is requested, the form of which is set out in Annex B of Schedule 24 (Change Control);

“Change Request Impact Assessment” means an assessment undertaken by the CONTRACTOR which sets out the risks and effects associated with the relevant Change and as set out in paragraph 5 of Schedule 24 (Change Control);

“Charges” means the charges payable by the AUTHORITY to the CONTRACTOR and which are set out in Schedule 15 (Charges);

“CINRAS” means the Communications and Cryptographic Incident Notification, Reporting and Alerting Scheme managed by CESG;

“Commencement Date” means the date of signature of this Agreement by both Parties;

“Commercially Sensitive Information” means the information of a commercially sensitive nature relating to the CONTRACTOR, its Intellectual Property Rights or its business or

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which, if disclosed by the AUTHORITY, would cause the CONTRACTOR significant commercial disadvantage or material financial loss as listed in Schedule 20 (CONTRACTOR's Commercially Sensitive Information);

"CONFIDENTIAL" has the meaning given to that term in the Manual of Protective Security;

"Confidential Information" means:

- (A) all information designated as such or as "Top Secret", "Secret", "Confidential" or "Restricted" by either Party in writing;
- (B) all other information which relates to the business, affairs, products, developments, trade secrets, know-how, personnel, customers and contractors of either Party; or
- (C) information which might reasonably be regarded as the confidential information of the disclosing party;

"Configurable Items" or "CIs" means any device, including but not limited to any computer, switch, firewall or router, whose function and or operational characteristics can be modified, and any item referred to in paragraph 3.6(e) and 3.6(f) of Schedule 2 (Services);

"Configuration Management" means the management of the Configurable Items;

"Configuration Management Database" or "CMDB" means the database for tracking the Configurable Items;

"Configuration Report" means the report on the current status of all Configurable Items;

"Connected Person" has the meaning given to it in s.346 Companies Act 1985;

"Continuous Improvement Programme" or "CIP" means the CONTRACTOR programme for the continual maintenance and improvement of the levels of the Services;

"Contract Change" means a change to this Agreement that requires an alteration to be made to any terms of this Agreement;

"Contract Change Control Procedure" means the procedure for Contract Changes as set out in paragraph 3 of Schedule 24 (Change Control);

"Contract Change Note" or "CCN" has the meaning given to that term in Schedule 24 (Change Control);

"Contracting Authority" has the meaning given to that term in clause 57.4(A);

"Contract Manager" means the representatives of the AUTHORITY and CONTRACTOR responsible for the management of the contract;

"CONTRACTOR" means Atos Origin IT Services UK Limited;

"CONTRACTOR Account Manager" means the CONTRACTOR representative assigned to act as liaison between the AUTHORITY and the CONTRACTOR relating to the Services;

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“CONTRACTOR Chief Security Manager” means the primary point of contact for all matters relating to the security of the Services;

“CONTRACTOR Cost of Financing” means an interest charge of 8.5% per annum applied to the outstanding deferred Transition Charges;

“CONTRACTOR Documentation” means the documentation and all printed and viewable materials owned by the CONTRACTOR and in existence prior to the provision of the Services including but not limited to, any parts of the CONTRACTOR Documentation which were in existence prior to the provision of the Services;

“CONTRACTOR Personnel” means all officers, employees, agents, affiliates, consultants and Subcontractors of the CONTRACTOR and all officers, employees, agents, affiliates and consultants of any Subcontractor;

“CONTRACTOR Premises” means any land or buildings utilised in connection with the delivery or receipt of the Services owned or controlled by the CONTRACTOR or any of its Subcontractors, third party suppliers or service providers;

“CONTRACTOR Software” means software (being either standalone software or software combined with or code contained within Third Party Software) used to deliver the Services which is owned by the CONTRACTOR and which is not Specially Written Software;

“CONTRACTOR Third Party Software” means software used in the provision of the Services the Intellectual Property Rights in which are owned by a third party and licensed to the CONTRACTOR as further set out in clause 13.1;

“Core Committed Team” means the core committed team referred to in paragraph 12 of Schedule 2 (Services);

“Core Gateway Components” means the Registration & Enrolment Engine, Authentication Engine, Transaction Engine and Payment Engine referred to in the Gateway Functions;

“Critical Alert” means an Alert or series of Alerts which have the potential to impact the delivery of the Gateway or the Services;

“Critical National Infrastructure” or “CNI” means those assets, services and systems that support the economic, political and social life of the UK whose importance is such that any entire or partial loss or compromise causes:

- (A) large scale loss of life;
- (B) a serious impact on the national economy;
- (C) other grave social consequences for the community or any substantial part of the community; and/or
- (D) immediate concern to the national government;

“Data” means all electronically held information;

“Database” means a structured aggregation of Data stored within dedicated software and Data Media;

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“Data Centre” means the building to be supplied by the CONTRACTOR that contains without limitation, the Secure Support Room, Network Operations Centre and Data Hall needed to securely manage, host and deliver the Gateway and the Services;

“Data Hall” means the secure area of the Data Centre that houses the Gateway Technical Infrastructure;

“Data Media” means the disks, tapes and other devices used to store Data;

“Data Restoration” means the restoration of Data onto IT infrastructure from back-up media;

“Data Storage” means the storage of Data on disk to enable a service to run or to store user related Data;

“Default” means any breach (including persistent breach) by a Party to this Agreement of its obligations under this Agreement (including a fundamental breach or breach of a fundamental term) or breach of any warranty, condition or any other term or default, act, omission, negligence, or misstatement of a Party to this Agreement or its employees, agents or Subcontractors in connection with or in relation to the subject matter of this Agreement or liability under any indemnity contained in this Agreement and in respect of which such Party is liable to the other;

“Deposited Software” means that Software set out in Annex A of Schedule 8 (as amended from time to time in accordance with the Change Control Procedure) that the Parties agree shall be placed in escrow in accordance with clause 39;

“Dispute Resolution Procedure” means process for resolution of a dispute between the Parties that is set out in clause 54;

“Documentation” means the documentation and all printed or viewable materials to be delivered by the CONTRACTOR at any time to the AUTHORITY (including any enhancements, modifications or updates thereof);

“Duration” means the period referred to in paragraph 8.4 of Schedule 15 (Charges) being the period between the commencement and end of the engagement of an individual project, including a Development Project, an Ad-Hoc Project or CIP;

“e-Government Interoperability Framework” or “(eGif)” means the framework that documents the technical policies and specifications governing information flows across government and the public sector;

“e-Government Strategic Framework” means the framework that documents the Government strategy to provide a strategic framework for public services accessible via multiple technologies;

“Electronic Information Processing Security Notices” means the notices issued from time to time by the Cabinet Office Security Policy Division;

“EMS” means Electronic Manufacturing Services;

“Emergency Action” has the meaning given to that term in clause 24.3;

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“Employees” means any and all individuals who are employed by the CONTRACTOR or any Subcontractor (other than the AUTHORITY) any time before the Transfer Date and who at any time prior to such date is concerned with all or any of the Services or any part thereof;

“Environmental Control” means levels of lighting, humidity, temperature, noise and other related environmental factors;

“Environmental Information Regulations” means the Environmental Information Regulations 2004;

“Equivalent Services” means services provided by a competitor of the CONTRACTOR that are similar in nature to the Services;

“Escalation Procedure” means the escalation process notifying the relevant CONTRACTOR and AUTHORITY representatives as set out in paragraph 4 of Schedule 2 (Services);

“Euro” means the single European currency established by all member states of the European Union or any of them;

“Exit Services” means the services described in Schedule 12 (Exit and Service Transfer Arrangements);

“Expenses” means those charges set out at paragraph 10.1 of Schedule 15 (Charges);

“External Milestone” means a milestone under CONTRACTOR management that may affect the AUTHORITY or its Customers. AUTHORITY has the right of veto on milestone change not to be unreasonably withheld;

“FAST” means the Federation Against Software Theft;

“Final Acceptance” means successful conclusion of the final acceptance milestone given by the AUTHORITY under and in accordance with Schedule 10 (Acceptance);

“Fixed Price” means the agreed fixed Charges for the provision of particular Services as identified in Schedule 15 (Charges);

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

“Force Majeure” has the meaning given to it in clause 55.1;

“Gateway” means the modular set of components comprising the Gateway Functions implemented and run on the Gateway Technical Infrastructure;

“Gateway Environments” means the combination of the Gateway Non-Production Environments and Production Environments;

“Gateway Functions” means the functions of the Gateway set out in paragraph 2.3 of Schedule 2;

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“Gateway Portal Pack” means the pack supplied by the CONTRACTOR to the AUTHORITY’s Customers to allow the AUTHORITY’s Customers to connect to the Gateway utilising digital certificates. The Gateway Portal Pack comprises a collection of components and associated documentation to enable a portal developer to modify their portal to allow Gateway authentication via digital signatures. The components include objects designed to run on the portal and on the client browser and are implemented in both Java and .Net technologies;

“Gateway Software” means the software referred to in paragraph 12 of Schedule 12;

“Gateway Technical Infrastructure” means any or all of the computer hardware, computer software, computer peripherals, hardware, software, servers, network and data storage equipment used to provide the Gateway and the Services;

“Good Value” means the Charges attributable to a Benchmarked Service, or to Benchmarked Services as a whole, are less than or equal to the Weighted Average Price;

“Government” means the UK Government;

“Government Furnished Equipment” or “GFE” means the equipment (including fixtures and fittings, software (including AUTHORITY Software), hardware, network, IT applications and documentation) supplied by the AUTHORITY to the CONTRACTOR for use in connection with the Services;

“Government Secure Intranet” or “GSI” means the internal private network providing secure e-mail services and a communications hub for shared government IT systems;

“Government Secure Intranet Code of Connection” means the document that sets out the minimum security requirements for connection to the Government Secure Intranet that must be achieved and maintained by the connecting party;

“Guarantor” means Atos Origin S.A. or such other person as the Parties agree following a change of control (as defined by Section 416 of the Income and Corporation Taxes Act 1988) who executes a guarantee;

“Hardware” means tangible equipment supplied by or through the CONTRACTOR and used by the AUTHORITY to receive the Services;

“Historic Exception Report” means a report raised when business workloads have exceeded available capacity;

“HMG Infosec Standards” means those standards produced by CESG which provide guidance and policy where Government information is being held and processed;

“Holding Company” has the meaning given to that expression in sections 736 and 736A of the Companies Act 1985 as amended by the Companies Act 1989;

“Hosting Services” means the services to be provided by the CONTRACTOR to the AUTHORITY as further described in Annex A to Schedule 2 (Services);

“Hosting Set-Up Charges” means the charges to be made to recover the Hosting Set-Up Costs including corporate overhead, profit and CONTRACTOR Cost of Financing as set out in paragraph 7.1.1 of Schedule 15 (Charges);

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"Hosting Set-Up Costs" means those costs incurred by the CONTRACTOR during the CCN 8 Transition Work Package that relate to the setting up of the Hosting Services and that are to be paid on an amortised basis over the life of the Hosting Services in accordance with the Agreement;

"Income From Operations (IFO)" means the profit made by CONTRACTOR for the provision of Services net of overheads and exclusive of either Subcontractor revenues and/or charges;

"Incident" means any event which is not part of the standard operation of the Gateway or the Services and which causes or may cause an interruption in, or reduction of, the Gateway or the Services;

"Incident Management" means the process aimed at restoring normal service as quickly as possible minimising any adverse impact on business operations to ensure best possible levels of service quality and availability;

"Information" has the meaning given under section 84 of the Freedom of Information Act 2000;

"Initial Term" has the meaning given to that term in clause 2.1;

"Insolvency Event" means where the CONTRACTOR or its Parent Company or a Guarantor passes a resolution, or a court makes an order that the CONTRACTOR or its Parent Company or the Guarantor be wound up (otherwise than for the purpose of a bona fide and solvent reconstruction or amalgamation) or a receiver, manager or administrator on behalf of a creditor is appointed in respect of all or part of the business of the CONTRACTOR or the Parent Company or the Guarantor, or circumstances arise which entitle a court or a creditor to appoint a receiver, manager or administrator or which entitle the court (otherwise than for the purpose of a bona-fide and solvent reconstruction or amalgamation) to make a winding up order or the CONTRACTOR or its Parent Company or the Guarantor ceases to trade (otherwise than in connection with a bona fide and solvent reconstruction or amalgamation) or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any similar event occurs under the law of any other jurisdiction;

"Intellectual Property Rights" or "IPR" means patents, registered or unregistered trade marks or service marks, design rights, applications for any of the foregoing, copyright, database rights, rights in know-how, trade or business names and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) or in any trans-border system of registration;

"Internal Milestones" means a milestone under CONTRACTOR management referred to in paragraph 3.4 and set out in Annex B of Schedule 3 or other project documents as the case may be;

"Internet Service Provider" or "ISP" means the providers of internet services;

"Introduced Faults" means any Incidents that are the result of a planned or unplanned Change activity;

"Intrusion Detection System" means a system attached to a communications network which monitors the traffic on the network and identifies activities that are not consistent with normal authorised use of the network;

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“Invoice Period” means the CONTRACTOR's monthly accounting period;

“IP” means Internet Protocol;

“ISO” - Industry Standards Organisation;

“ISO 27000” means the series of International Organisation for Standardisation standards specifically reserved for information security matters;

“ISO 9000:2000” means ISO Standard 9000:2000;

“ISO Standard” means one of the series of standards published by the International Organisation for Standardisation (ISO);

“ISV” means Independent Software Vendor;

“IT Health Check” means a process to identify technical vulnerabilities in IT systems and networks which may compromise the confidentiality, integrity or availability of information held on that IT system;

“ITIL” means the IT Infrastructure Library, being the best practice guidelines defined by the OGC for IT service management;

“IT Service Continuity Management” or “ITSCM” means managing an organisation's ability to continue to provide the predetermined and agreed level of services to support the minimum business requirements following a major interruption to the business;

“ITSCM Plans” means the plans to be prepared by the CONTRACTOR in accordance with paragraph 3.9 of Schedule 2 (Services);

“Key Milestones” means the Shared Milestones and External Milestones identified in Schedule 3 or any other relevant project document, as the case may be, in respect of which liquidated damages are payable in accordance with clause 6 of the Agreement;

“Key Performance Indicators” or “KPIs” means those performance criteria set out in paragraph 6 of Schedule 4;

“Key Personnel” means those positions, skills and roles filled by certain CONTRACTOR Personnel as identified in Schedule 21 (Key Personnel);

“Known Facts” means the set of identifiers required for a User to enrol on the Gateway;

“Law” means any Act of Parliament or subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom;

“Legacy Code” means any code within the Gateway product set that has been given an end of life date;

“List X” means the Government approval to store and process material marked “CONFIDENTIAL” and above at a non-Government site;

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“Maintenance Release” means a minor Release which may include the following:

- (A) application code changes;
- (B) implementation of new or upgrades to existing application or operational software packages;
- (C) integration of additional interfaces to or from the Gateway; and
- (D) changes of infrastructure or additions to the infrastructure of the Gateway;

“Major Incident” means where one or more Incidents or Problems are causing a significant and adverse impact on Users, including, without limitation, any Incident that the AUTHORITY designates as a Priority 1 Incident or a Priority 2 Incident;

“Major Incident Management” means the specific procedure for managing a Priority 1 or Priority 2 Incident;

“Management Information” means reports from the CONTRACTOR to the AUTHORITY in an agreed form that record the Services’ compliance or otherwise with the Service Levels, or that detail the usage and performance of other aspects of the Services;

“Manual of Protective Security” means the Cabinet Office’s manual detailing national minimum standards and recommended procedures for the protection of Government assets;

“Market Testing” means an exercise by the AUTHORITY to test those parts of the Services that are provided by a Subcontractor for competitive value against established industry standards;

“Material Default” means any Default by the CONTRACTOR which either alone or when taken together with any other Default has a significant and adverse effect on the AUTHORITY, the AUTHORITY’s Customers and/or any Users;

“Material Reduction” means any material reduction in the Services;

“Maximum Weighted Score” means the maximum score possible for any individual KPI listed in Schedule 4;

“Measurement Period” means the specific period, based on the CONTRACTOR’s accounting period, during which the CONTRACTOR shall measure and report to the AUTHORITY on the performance of the Services;

“Measurement Tool” means the measurement tool or methodology used to measure the performance of each Service Level and KPI;

“Miscellaneous Charges” means those charges set out at paragraph 10.5 of Schedule 15;

“Monitored Systems” means the systems in the Data Hall that are monitored by the Network Operations Centre team which are Production, Reference, Staging and ISV Environments plus supporting interfaces and network infrastructure;

“month” means a calendar month;

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“MOU1” and “MOU2” mean the memoranda of understanding between the AUTHORITY and each of the AUTHORITY’s Customers for provision of the Gateway;

“Net Book Value” means the net value of an asset equal to its original cost less depreciation and amortisation;

“Network Operations Centre” or “NOC” means the secure area, separate from the Data Hall from which the Monitored Systems are monitored;

“Neutral Advisor” has the meaning given to that term in clause 54.3;

“Non-core Gateway Components” means Alerts Engine, Help Desk Tools and Securemail (both legacy and new);

“Non Critical Alert” means an Alert for an event which does not directly impact the provision of the Gateway or the Services;

“Non-Production” and “Non-Production Environment” each mean the test and development environments of the Gateway that can be made available to AUTHORITY Customers, being the ISV, Reference, Staging and VMG Environments;

“Notice” means a notice made and served in accordance with clause 50.2;

“OGC” means the Office of Government Commerce, an independent office of the Treasury which works with public sector organisations to help them improve their efficiency, gain better value for money from their commercial activities and deliver improved success from programmes and projects;

“OGCbuying.solutions” means the executive agency of the OGC whose role it is to deliver value for money gains for central civil government;

“OJEU” means Official Journal of the European Union;

“OLA” means an internal agreement covering the delivery of services which support the CONTRACTOR in its delivery of the Services;

“Open Book” means access to financial information held by or on behalf of the CONTRACTOR including but not limited to:

- (A) actual capital expenditure, including capital replacements costs;
- (B) actual operating expenditure relating to the provision of the Services, with an analysis showing the costs of staff, consumables, sub-contracted and bought-in services;
- (C) all interest, expenses and other third party financing costs specifically incurred in relation to the provision of any of the Services;
- (D) details of the overhead recoveries that have been made in relation to the Services;
- (E) the profit which the CONTRACTOR has achieved in the provision of the Services, including any profit element forming any part of the overhead recoveries disclosed by reason of (D) above;

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- (F) the details of each unit price for each price element for all activities;
- (G) the volume of units for each price element;
- (H) the calculated prices of those price elements that are driven by price units and volumes; and
- (I) a descriptive table of the types of risk and the overall charge for risk associated with the provision of Services (to be provided annually only);

Any information supplied by the CONTRACTOR in accordance with (A) - (I) above is Commercially Sensitive Information;

“Operational Acceptance Test” or “OAT” means the testing performed prior to any changes, maintenance or application releases, hotfixes or updates being deployed in the Production Environment;

“Operational Change” has the meaning as defined in Schedule 24 (Change Control);

“OEM” means Original Equipment Manufacturer;

“ODM” means Original Design Manufacturer;

“Parent Company” means any company which is the ultimate Holding Company of the CONTRACTOR or any other company of which the ultimate Holding Company of the CONTRACTOR is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the CONTRACTOR or which is engaged in the same or similar business to the CONTRACTOR;

“Parties” means the AUTHORITY and the CONTRACTOR and “Party” shall mean either of them;

“Partner Top Table” has the meaning given to that term in clause 2.8 of Schedule 13 (Governance and Reporting);

“Performance Level” means the level of performance to be attained by each KPI and/or Service Level;

“Performance Test Tool” means the application that has been developed in order to performance test the Gateway product set;

“Priority” means the classification of an incident or Problem as classified in paragraph 3.4 of Schedule 4 (KPIs, Service Levels and Service Credits);

“Problem” means an unknown underlying cause of one or more Incidents;

“Problem Management” means the process for identifying the Root Cause of Incidents and ensuring the implementation of long term solutions;

“Production” and “Production Environment” mean the live, public facing (non-test) environment that contains real-time data and provides the Gateway Functions;

“Production Service” means the service which runs on the Production Environment;

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“Protectively Marked Documents” means documents marked according to the scheme set out in the Manual of Protective Security that details the standard of protection required to safeguard information;

“Protective Marking Scheme” means the scheme set out in the Manual of Protective Security that details the standard of protection required to safeguard information;

“Quality Service Indicator” or “QSI” means a score based on the performance of monthly KPIs as set out in Schedule 4;

“Questionnaire Pack” and “QP” means the pack of documentation agreed between the AUTHORITY, the AUTHORITY’s Customer and the CONTRACTOR, which defines the scope and timescales of a Service Build project;

“QSI Threshold” means the pre-set bands against the KPIs as set out in Annex A Schedule 4;

“QSI Threshold Failure Service Credits” has the meaning given to it in Schedule 4;

“Raw Performance Score” means the score to be applied for each Service Element, which when multiplied by the Weighting determines the Actual Weighted Score, as set out in Schedule 4;

“Records” has the meaning given to it in clause 32.1;

“Rectification Plan” has the meaning give to that term in clause 29.4;

“Reference” and “Reference Environment” mean the environment used for testing prior to deploying to Production;

“Release” means a collection of authorised changes to the Services, and includes Maintenance Releases, Application Releases, hot fixes, patches and software updates;

“Release Management” means all activities surrounding the planning, preparation and scheduling of a Release;

“Release Schedule” means the annual calendar of Releases;

“Relevant Entity” has the meaning given to that term in clause 26.1;

“Relevant Period” has the meaning given to that term in paragraph 18.2 of Schedule 12 (Exit and Service Transfer Arrangements);

“Replacement Contractor” means any successor contractor engaged by the AUTHORITY to perform services to replace the Services following the expiry or termination of the Services;

“Request for Information” or “RFI” means a request for information or an apparent request under the FOIA or the Environmental Information Regulations;

“Required Assets” has the meaning given to that term in paragraph 6.2 of Schedule 12 (Exit and Service Transfer Arrangements);

“RMADS” has the meaning given to that term in paragraph 1.3 of Schedule 11 (Security)

Schedule 1: Definitions

“Resolution” means when the interruption to, or reduction in, quality of any part of the Services has been overcome;

“RESTRICTED” has the meaning given to that term in the Manual of Protective Security;

“Root Cause” means the underlying cause of an Incident or a Problem;

“Root Cause Analysis” or “RCA” means the process of investigation aimed at identifying the Root Cause;

“S-CAT” means the terms and conditions applicable to the OGC Services Catalogue as at the date of signature of the Assignment Contract;

“Scheduled Downtime” means a period, pre-agreed between the CONTRACTOR and the AUTHORITY, during which any part of the Services are not available;

“Secure Support Room” means the dedicated room adjacent to the Data Hall;

“Security Aspects Letter” means a list of protectively marked assets and level of personnel clearance necessary to that Data;

“Security Incident” means any event which involves unauthorised access or removal or theft of information pertaining to the Services and/or any non-compliance with the AUTHORITY’s security policy as defined in Schedule 11 (Security);

“Security Management” means the maintenance of the confidentiality, availability and integrity of the Services as set out at paragraph 7.1 of Schedule 11 (Security);

“Security Monitor” means equipment generating Alerts from the security Tools present in the Data Centre, including the applications, firewalls, intrusion detection systems and the building management system;

“Selected Third Party” means a Subcontractor that will provide selected services to the CONTRACTOR in part delivery of the Services;

“Service Build” means all aspects of implementing services onto the Gateway such as project management (both technical project management and Customer-facing project management) technical support, development, build, test and release to agreed environments;

“Service Continuity Invocation” means the invocation of the ITSCM Plan;

“Service Credit” means any sum owed by the CONTRACTOR to the AUTHORITY, in respect of the Service Levels and which is calculated in accordance with Schedule 4 (KPIs, Service Levels and Service Credits);

“Service Credit Band” means the tiered threshold applicable for calculating Service Credits as set out in Annex A of Schedule 4 (KPIs, Service Levels and Service Credits);

“Service Day” means a Standard Working Day;

“Service Delivery Manager” or “SDM” means those representatives of the AUTHORITY and the CONTRACTOR responsible for the day-to-day management and provision of the Services;

Schedule 1: Definitions

“Service Desk” means a facility at the CONTRACTOR’s site delivering a single point of contact for Incidents, Change Requests and Service Requests;

“Service Element” or “SE” means the distinct elements against which the Service Levels are measured as set out at paragraph 5 of Schedule 4 (KPIs, Service Levels and Service Credits);

“Service Level” means the measurement criteria relating to the performance of the CONTRACTOR in the delivery of the Services as set out in Schedule 4 (KPIs, Service Levels and Service Credits);

“Service Level Management” or “SLM” means the process of monitoring and reporting on CONTRACTOR performance against KPIs and Service Levels;

“Service Management” means the delivery and support of IT services that are appropriate to the business requirements of the AUTHORITY. For the purposes of this Agreement, Service Management relates to the delivery and support of the Services by the CONTRACTOR as described in Schedule 2 (Services);

“Service Report” means the monthly report relating to information on the Services as is more particularly set out in Schedule 13 (Governance and Reporting);

“Service Reporting” means the Services reporting process as described in Schedule 13 (Governance and Reporting);

“Service Request” means any request to the Service Desk that is not an Incident or a Change Request;

“Services” means the services to be provided by the CONTRACTOR as set out, or referred to, in Schedule 2 (Services), or as shall otherwise be agreed by the Parties from time to time;

“Severity 1” means any failure in the Hosting Services which causes an outage to all or any Gateway Functions or complete loss of either GSi or Internet connectivity to the Gateway;

“Severity 2” means any failure in the Hosting Services which causes a partial outage to any Gateway Functions, including any performance degradation or any fault in the Hosting Services resulting in single leg operation;

“Severity 3” means a random or generic fault that affects part of the functionality (but not the entire function, Gateway Function or departmental transaction) and causes processing failures for Users and/or departmental systems;

“Severity 4” means a minor random or generic fault that does not generate processing failures for Users or departmental systems but affects part of the functionality intermittently, or has the potential for minor impact on departmental systems;

“Severity Level” means the level of criticality of a Problem or an Incident in relation to the Hosting Services as referred to above, being either Severity 1, Severity 2, Severity 3 and Severity 4;

“Shared Milestones” means a milestone under CONTRACTOR management that may affect the AUTHORITY, as identified in paragraph 3.4 of Schedule 3;

Schedule 1: Definitions

“Software” means any software used in the delivery of the Services;

“SOR” means the Gateway Strategic Support Statement of Requirements, Version 1.0 Final, dated 17 January 2006;

“Source Code” means software or Data in eye-readable form and in such form that it can be compiled or interpreted into equivalent executable code together with all technical information and documentation necessary for the use, reproduction, modification and enhancement of such software or Data;

“Specially Written Documentation” means any documentation written by or on behalf of the CONTRACTOR for use by the CONTRACTOR specifically in the provision of the Services (including any modifications, enhancements or updates made to such documentation);

“Specially Written Software” means any software written by or on behalf of the CONTRACTOR for use by the CONTRACTOR specifically in the provision of the Services (including any modifications, enhancements or updates made to such software);

“Staging” and “Staging Environment” mean a replication of the test environment used for testing purposes;

“Standard Working Day” and “Working Day” each mean the period from 08:00 to 18:00 for each day from Monday to Friday including English and French public holidays;

“Status Accounting” means the process of creating and organising information necessary for the performance of Configuration Management;

“Step-Out Date” has the meaning given to that term in clause 24.6;

“Step-Out Notice” has the meaning given to that term in clause 24.6;

“Step-Out Plan” has the meaning given to that term in clause 24.6;

“Strategy and Planning Board” means the board described at paragraph 2.9 of Schedule 13 (Governance and Reporting);

“Subcontract” means any contract or agreement (or proposed contract or agreement) between the CONTRACTOR and any third party whereby that third party agrees to provide to the CONTRACTOR any services or any material part thereof or information technology facilities or information technology services in connection with the provision of the Services or any part thereof;

“Subcontractor” means a third party with whom the CONTRACTOR enters into a Subcontract;

“Term” means the Initial Term and any extension period as set out in clause 2.2;

“Third Party Contracts” means the third party contracts referred to in clause 37 and set out in Schedule 23;

“Third Party Documentation” means Documentation the Intellectual Property Rights in which are owned by a third party;

Schedule 1: Definitions

“Third Party Management” means management of any AUTHORITY Third Party by the CONTRACTOR;

“Third Party Service Providers” means third parties who are contracted by the CONTRACTOR or the AUTHORITY to undertake specific activities in relation to the Services;

“Third Party Software” means software the Intellectual Property Rights in which are owned by a third party and which is used by the CONTRACTOR in the provision of the Services (including any modifications or enhancements made to such software during the term of this Agreement);

“Tools” means software that supports Service Management activities;

“Transfer Date” means the date and time at which the Services transfer to the AUTHORITY or a Replacement Contractor following the termination or expiry of this Agreement;

“Transfer of Responsibility Date” and “TORD” each mean the date on which the CONTRACTOR takes on responsibility for the provision of the Services;

“Transfer Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 1981 as amended, re-enacted or consolidated from time to time;

“Transformation Services” means the services provided by the CONTRACTOR under Schedule 7 (Transformation);

“Transition Period” means the period from the date on which the Transition Plan is baselined in accordance with Schedule 3 (Transition) until the Transfer of Responsibility Date;

“Transition Services” means the services provided by the CONTRACTOR under Schedule 3 (Transition);

“Trusted Third Party” means an organisation, acceptable to both Parties, commissioned to perform a Benchmarking exercise by the AUTHORITY;

“Unclassified Data” means Data within the Services that is not protectively marked;

“Uninterruptible Power Supply” or “UPS” means technical equipment that will provide continuous power in the event of the electrical power supply to the building failing completely for a fixed duration;

“UNIRAS” means the Unified Incident Reporting and Alert Scheme (further details of which are available at www.uniras.gov.uk);

“Use” means:

- (A) with respect to software the right to load, execute, store, transmit, display, copy and to the extent permitted by law to amend, modify, enhance, reverse assemble, reverse compile, decode, translate or otherwise utilise software as permitted under licence from a third party (and without additional charge have any third party do any such acts with respect to such software for the AUTHORITY); and

Schedule 1: Definitions

(B) with respect to the Documentation the right to copy, adapt or otherwise utilise the Documentation and to use items, works, products or know-how incorporating, using or derived from such Documentation (and without additional charge have any third party do any such acts for the AUTHORITY);

“User” means an AUTHORITY employee or agent or other authorised person acting on behalf of the AUTHORITY, or any:

(A) member of the public;

(B) any Government department; or

(C) any employee, agent or other authorised person acting on behalf of Government,

who is an end user of the Gateway;

“Valid Form Invoice” means the invoice produced and submitted to the AUTHORITY in accordance with this Agreement and in particular the procedures relating to invoicing and payment procedures detailed in Schedule 16 (Invoice and Payment Procedures);

“Value For Money” means the most economic, efficient and effective delivery of the Services, determined by an assessment, to be made by the Trusted Third Party during the Benchmarking process, of the value to the AUTHORITY of its investment in the Services, that the Services delivered meet the qualitative statements set out in the SOR and that costs are in line with the public sector comparator;

“VAT” means value added tax as provided for in the Value Added Tax Act 1994 and legislation supplemental thereto or replacing, modifying or consolidating it;

“VMG” means virtual machine gateway;

“Volumetrics” means the volumetrics set out in Annex 4 of Schedule 15 (Charges);

“Warning Notice” has the meaning give to that term in clause 29.4;

“Weighted Average Price” means, in relation to the Equivalent Services provided by a comparison sample, the average price of the relevant services derived over the Benchmark Period. The precise methodology will be determined by the Trusted Third Party;

“Working Day” and “Standard Working Day” each mean the period from 08:00 to 18:00 for each day from Monday to Friday including English and French public holidays; and

“Year” means each consecutive twelve (12) month period from TORD.