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DATED

25/05/2012.

(1) THE CABINET OFFICE

-and-

**(2) VIRGIN MEDIA WHOLESALE Ltd / CABLE & WIRELESS UK / GLOBAL CROSSING
(UK) TELECOMMUNICATIONS LTD / BRITISH TELECOMMUNICATIONS plc**

DEED

relating to

**THE PARTICIPATION IN THE PUBLIC
SERVICES NETWORK AS A
GOVERNMENT CONVEYANCE
NETWORK SERVICE PROVIDER**

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THIS DEED is made on

[25th May 2012]

BETWEEN:

- (1) **THE CABINET OFFICE** of 22 Whitehall, London SW1A 2DD ("**the Authority**"); and
- (2) **VIRGIN MEDIA WHOLESALE Ltd / CABLE & WIRELESS UK / GLOBAL CROSSING (UK) TELECOMMUNICATIONS LTD / BRITISH TELECOMMUNICATIONS plc** a company registered in England and Wales under company number 2514287 whose registered office is at []. ("**Contractor**").

INTRODUCTION

- A The Public Services Network Authority is an office of the Cabinet Office, and is the organisation mandated to facilitate the provision of the Public Services Network.
- B The Public Services Network (PSN) will create a new shared but secure telecommunications environment for the UK public sector. It will create the effect of a single network across the public sector, delivered through multiple service providers, to create a more efficient marketplace for public sector ICT services, and thus ensure ongoing value and innovation.
- C The Government Conveyance Network is a core part of the development of the Public Services Network. The Government Conveyance Network is a network of high-availability points of connection, made available to Direct Network Service Providers, which connect network services directly to the GCN.
- D The Contractor wishes to sell its GCN Services to Direct Network Service Providers, and to connect its network to other GCN Service Providers.
- E The Authority has a role in protecting the interests of the public sector - the ultimate end consumers of the GCN Services. The Authority therefore wishes to ensure that there is formal confirmation from the Contractor that: (i) it shall participate in Compliance Verification and will remain compliant with the PSN interoperability, performance, security and commercial requirements set by the Authority, (ii) it agrees to the method of revision to those requirements, (iii) there are accepted obligations in relation to service transfer to other service providers in the event of exit from the provision of GCN Services, and (iv) there are agreed associated service management and dispute procedures.

F The Authority and the Contractor now wish to agree the following provisions in relation to the Contractor's participation in and service connection to the Public Services Network.

IT IS AGREED as follows:

SECTION A - PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the definitions set out in Schedule 1 (Definitions) shall apply.
- 1.2 In this Deed, unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it.
- 1.3 The Contractor shall remain responsible for all acts and omissions of its Sub-contractors as if they were its own. An obligation on the Contractor to do, or to refrain from doing, any act or thing shall include an obligation upon the Contractor to procure that its employees, staff, agents and Sub-contractors also do, or refrain from doing, such act or thing.
- 1.4 The fact that any provision within this Deed is expressed as a warranty shall not preclude the right of termination that the Authority may have in respect of any breach of that provision by the Contractor.
- 1.5 If there is any conflict between the clauses and the schedules and/or any annexes to the schedules and/or any other documents referred to in this Deed, the conflict shall be resolved in accordance with the following order of precedence, with items listed first taking priority over later items:
 - 1.5.1 Schedule 9 (Exceptions and Additions);
 - 1.5.2 the terms of this Deed, and Schedule 1 (Definitions);
 - 1.5.3 Schedule 8 (Commercially Sensitive Information);
 - 1.5.4 Schedule 2 (GCN Service Requirements); GCN Service Description; Technical Domain Description; Service Management Framework; Incident and Problem Management; Interim Event Management; Change and Release Management; Management Information Requirements;

- 1.5.5 the PSN Document Management and Change Control;
- 1.5.6 Schedule 3 (GCN Statement of Fairness);
- 1.5.7 Schedule 4 (GCN Compliance); PSN Compliance;
- 1.5.8 Schedule 5 (Financial Distress);
- 1.5.9 Schedule 6 (Dispute Resolution Procedure); and
- 1.5.10 Schedule 7 (Records Provision).

SECTION B - PARTICIPATION IN GCN

2. NON-EXCLUSIVITY OF GCN SERVICES

The Contractor acknowledges and agrees that it has no exclusivity of supply of GCN Services in the UK or any part of the UK. The Authority may in its sole discretion at any time agree arrangements with fit and proper entities to provide similar services to the GCN Services anywhere within the UK.

3. CANDIDATE GCN SERVICE PROVIDER REQUIREMENTS

Fit and Proper Person

3.1 It is an Authority requirement and condition of this Deed that only Fit and Proper Persons provide GCN services, which the Authority shall be responsible for determining in its absolute discretion on the basis of all information received and held by it. By signing this Deed, the Contractor warrants and represents that the information it provides or has provided to the Authority in respect of:

- 3.1.1 its Contractor Group;
- 3.1.2 Regulatory Body licences, permissions and authorisations held by it;
- 3.1.3 insurances;
- 3.1.4 letters of intent agreed with other GCN Service Providers in respect of interconnection to the GCN;

is complete, true and accurate in all material respects. Subject to clause 3.2, the Contractor shall provide the Authority with written notice of any anticipated or

actual material change to any information provided under this clause at any time during the Term.

Change of Control

- 3.2 The Contractor shall provide to the PSN Programme Director advance written notice of any anticipated or known Change of Control in the Contractor or Parent Company where permissible in accordance with any applicable statute, regulation, rules of any Regulatory Body or stock exchange. The Authority shall ensure that such information is treated as strictly confidential. The Authority may only disclose such information to personnel who need to know the information, and shall ensure that such personnel comply with these confidentiality obligations. Where advance written notice is not permissible in accordance with any applicable statute, regulation, rules of any Regulatory Body or stock exchange, the Contractor shall provide written notice within 20 Working Days of the effective date of the Change of Control.
- 3.3 The Authority may at any time within 60 Working Days of receipt of a notice pursuant to clause 3.2, or upon becoming aware of any actual Change of Control in the Contractor or the Parent Company, terminate this Deed without penalty by providing written notice to the Contractor (including specifying any reasonable notice period (if any) for when such termination shall be and become effective) where the Authority can reasonably demonstrate to the extent that it is able to do so that such Change of Control:
- 3.3.1 may or will adversely affect or prejudice:
 - 3.3.1.1 national security; and/or
 - 3.3.1.2 the status of the Contractor as a Fit and Proper Person in accordance with clause 3.1; and/or
 - 3.3.1.3 the ability of the Contractor to comply with its obligations under this Deed;
 - 3.3.1.4 the provision by the Contractor of the GCN Services; and/or
 - 3.3.2 has or is likely to have a materially adverse affect on the financial standing of the Contractor or the Parent Company.

Notwithstanding the foregoing, where the Authority gives its written consent to any Change of Control notified to it pursuant to clause 3.2, such consent shall be irrevocable.

Financial Distress

3.4 The Contractor shall comply with the provisions set out in Schedule 5 (Financial Distress) throughout the Term.

Resources

3.5 The Contractor shall at all times provide the Authority with such assistance as the Authority may reasonably require, and allocate reasonable resources to meet its obligations as set out in this Deed.

4. COOPERATION WITH OTHER GCN SERVICE PROVIDERS

4.1 As a provider of GCN Services, the Contractor shall be responsible for creating arrangements with all other GCN Service Providers, for establishing connections between services, and developing processes and procedures relating to the provisioning, delivery and consumption of GCN services.

4.2 The Contractor warrants and undertakes for itself to ensure that the entry, exit and any other criteria, policies, procedures and working practices associated with linking the GCN networks together are transparent, non-discriminatory, fair and reasonable, objective, proportionate, and in compliance with any directions from the applicable Regulators and the Law.

5. COMPLIANCE VERIFICATION

5.1 The Contractor shall achieve and maintain GCN Compliance Certification for the GCN Services.

5.2 The Contractor shall complete Compliance Verification in relation to the requirements set out in Schedule 4 (GCN Compliance).

5.3 The Contractor has 12 months from the date of this Deed to achieve GCN Compliance Certification for its GCN Services. If the Contractor fails to achieve GCN Compliance Certification within this period, or any extended period granted by the Authority in writing in accordance with paragraph 3.16 of Schedule 4 (GCN

Compliance), then this Deed may be summarily terminated without penalty by the Authority giving the Contractor written notice at any time thereafter.

- 5.4 The Authority shall confirm to the Contractor in writing when the Contractor has successfully completed Compliance Verification to the Authority's reasonable satisfaction in accordance with paragraph 2.2 and 3.14, or pursuant to the Authority's deemed acceptance under paragraph 3.15 of Schedule 4 (GCN Compliance), and has achieved GCN Compliance Certification for its GCN Services.
- 5.5 The Contractor acknowledges and accepts that notwithstanding successful completion of Compliance Verification and achievement of GCN Compliance Certification, the Contractor remains solely responsible for ensuring that the GCN Services are fit for purpose and provided in accordance with the provisions of this Deed and the relevant GCN Service Agreements.
- 5.6 The Contractor's GCN Compliance Certificate may be terminated by the Authority without penalty as specified in Schedule 4 (GCN Compliance).
- 5.7 The Authority may suspend a GCN Compliance Certificate with immediate effect and without penalty where there is a security incident affecting fit for consumption accreditation as set out in PSN Compliance, and only where required by the Infrastructure SIRO. The Authority shall specify the reasons for the Compliance Certification suspension in writing.
- 5.8 Where a GCN Compliance Certificate is terminated in accordance with clauses 5.6 or 18 (Termination Rights) or suspended in accordance with clause 5.7, clause 6.5 shall apply.
- 5.9 Following termination of a GCN Compliance Certificate in accordance with clauses 5.6 or 18 (Termination Rights) or suspension of a GCN Compliance Certificate in accordance with clause 5.7, the Contractor may resubmit its GCN Services for Compliance Verification at any time following resolution of the event causing the suspension or termination. Where the Contractor resubmits its GCN Services for Compliance Verification within a 12 month period from the effective date of termination in accordance with clause 5.6 or suspension in accordance with clause 5.7, the scope of Compliance Verification shall be limited to:

- 5.9.1 those elements of the GCN Services specified in writing as resulting in the GCN Compliance Certificate being suspended or terminated; and
- 5.9.2 any changes in requirements and standards as set out in Schedule 2 (GCN Service Requirements) and Schedule 3 (GCN Statement of Fairness) that have not been subject to Compliance Verification since the last successful Compliance Verification.

Except as specified here, Compliance Verification following termination or suspension of Compliance Certification shall be in relation to the entire scope of GCN Services and as specified in Schedule 4 (GCN Compliance).

6. GCN SERVICE OBLIGATIONS

- 6.1 The Contractor represents, warrants and undertakes to comply with the obligations set out in this clause 6 throughout the Term.
- 6.2 From time to time, the Contractor may receive requests from third parties wishing to become a GCNSP. The Contractor recognises that the cooperation of all GCNSPs is required in order for any new entrants to become a GCNSP. It is a condition of this Deed, that, unless otherwise agreed with the Authority, the Contractor shall provide such assistance as is reasonably necessary in order to allow the new entrant to proceed with signing its Deed of Undertakings, subject to the new entrant agreeing to pay the Contractor's reasonable costs if the new entrant does not achieve GCN Compliance Certification for its GCN services.
- 6.3 The Contractor shall provide such reasonable assistance where requested by any other GCN Service Provider or Candidate GCN Service Provider that is reasonably necessary in order to facilitate any Compliance Verification of the other GCN Service Provider or Candidate GCN Service Provider.
- 6.4 Except pursuant to clause 19.4, the Contractor warrants and undertakes that it shall throughout the Term connect the GCN Services:
 - 6.4.1 only to those GCN services, and to all GCN services provided by other GCN Service Providers (or Candidate GCN Service Providers) who have a current valid Deed of Undertakings with the Authority, and:
 - 6.4.1.1 are undergoing the Compliance Verification process, as advised by the Authority; or

- 6.4.1.2 have a current valid GCN Compliance Certificate;
- 6.4.2 only to DNSPs services where the DNSP has achieved DNSP Compliance Certification for its direct network services.
- 6.5 The Contractor warrants and undertakes that it shall throughout the Term:
 - 6.5.1 subject to clause 19.4, disconnect its GCN Services from all GCN Services Providers and Direct Network Service Providers, where the Contractor no longer holds a current GCN Compliance Certificate, or where such GCN Compliance Certificate is suspended in accordance with clause 5.7, for its GCN Services, but only where such disconnection is specifically required in writing and authorised by the Authority;
 - 6.5.2 disconnect its GCN Services from any other GCN Service Providers' GCN services where notified by the Authority that the other GCN Service Provider's Deed of Undertakings with the Authority is terminated for any reason, but only where such disconnection is specifically required in writing and authorised by the Authority;
 - 6.5.3 disconnect its GCN Services from any other GCN Service Providers' GCN services where notified by the Authority that such other GCN Service Provider no longer holds a current GCN Compliance Certificate, or where such GCN Compliance Certificate is suspended, but only where such disconnection is specifically required in writing and authorised by the Authority; and
 - 6.5.4 disconnect its GCN Services from any Direct Network Service Providers' services where notified by the Authority that any such Direct Network Service Provider no longer holds a current DNSP Compliance Certificate or where such DNSP Compliance Certificate is suspended for their direct network services, but only where such disconnection is specifically required in writing and authorised by the Authority.

The Authority shall not be liable to the Contractor for any claims, proceedings, actions, damages, costs, expenses and any other liabilities of any kind which may arise out of, or in consequence of the withdrawal of any other party's DNSP Compliance Certificate, GCN Compliance Certificate or termination of a Deed of Undertakings, or any notification pursuant to this clause.

- 6.6 The Contractor warrants and undertakes to comply with, the provisions of:
- 6.6.1 Schedule 2 (GCN Service Requirements);
 - 6.6.2 Schedule 3 (GCN Statement of Fairness); and
 - 6.6.3 Schedule 4 (GCN Compliance).
- 6.7 The Contractor warrants and undertakes to comply with the Law as amended, extended or re-enacted from time to time.
- 6.8 The Contractor has, and shall continue to hold, all regulatory licences permissions and authorisations from the Regulatory Bodies necessary to perform the Contractor's obligations under this Deed and the GCN Service Agreements.

Critical National Infrastructure

- 6.9 The GCN may be identified by the UK Government as an element of Critical National Infrastructure on the basis of its criticality and the service it provides. Where this arises, the UK Government will require all reasonable assistance, information and assurance in relation to the GCN Service that vulnerabilities are mitigated and resilience ensured. The requirements for the protection of Critical National Infrastructure are set by the Authority advised by CPNI and CESG. The Contractor undertakes that it shall comply with any reasonable additional requirements notified to it by the Authority in writing that relate to the protection of Critical National Infrastructure in its provision of the GCN Services.

Provision of Incident Information

- 6.10 There will be a common approach to the co-ordination and communication of events, incidents and changes between GCN Service Providers, PSN Service Providers and PSN Service Consumers. This may take the form of a central service, or a policy for the exchange of service management information directly between PSN participants. The common approach shall be developed by the Authority in consultation with the Contractor, other GCN Service Providers, PSN Service Providers, Customers, and other organisations planning to provide PSN Services or become PSN Customers, and shall be as specified in the following documents, developed in accordance with clause 13.2:
- 6.10.1 Service Management Framework;

6.10.2 Incident and Problem Management;

6.10.3 Interim Event Management; and

6.10.4 Change and Release Management.

The Contractor shall comply with the approach to the co-ordination and communication of events, incidents and changes between GCN Service Providers as set out in the documents listed in this clause 6.10.

Minimum Service Levels

6.11 Notwithstanding any provision to the contrary in a GCN Service Agreement, the Contractor undertakes to remedy any failure by the Contractor to meet the Minimum Service Levels. The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the GCN Services against the applicable Minimum Service Levels at a level of detail reasonably necessary to verify compliance with the Minimum Service Levels.

Management Information

6.12 The Contractor shall provide the management information as required in the Management Information Requirements. The Contractor shall also make available Records in accordance with Schedule 7 (Records Provision). The Contractor warrants the accuracy and completeness of the management information and Records in all material respects that it supplies pursuant to this clause.

Fix First, Find Fault Later

6.13 Notwithstanding clause 6.11, the Contractor shall be obliged to 'fix first and find fault later'. This means that if, at any time, the Contractor becomes aware that there is (or is likely to be) an interruption or degradation in the provision of the GCN Services for whatever reason, whether the issue is caused by the Contractor, or any third party, the Contractor shall use all reasonable endeavours to eliminate or mitigate (to the extent it is able) the consequences of the delay and impact on the GCN Services and the Public Services Network.

- 6.14 In the event of any Dispute, each party shall continue to comply with its obligations under this Deed and the Contractor shall continue to provide the GCN Services, until the Dispute has been resolved.

Exclusion of Implied Warranties

- 6.15 Except as expressly stated in this Deed, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

7. FORCE MAJEURE

- 7.1 Either party may claim relief from liability for non-performance of its obligations under this Deed to the extent this is due to a Force Majeure Event.

- 7.2 The Contractor cannot claim relief or terminate pursuant to clause 18.17 if the Force Majeure Event is:

7.2.1 an act of terrorism, and the Contractor has failed to ensure it has appropriate business continuity and disaster recovery systems and procedures in place (or has failed to implement such procedures) to mitigate the impact of such act on its GCN Services; or

7.2.2 attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

In this clause 7.2, "appropriate business continuity and disaster recovery systems and procedures" shall mean those systems, plans and procedures put into place and implemented by the Contractor which shall be in accordance with the general principles outlined in BS 25999 (Business Continuity Management) and the good practice guidelines of the Business Continuity Institute (each as amended from time to time).

- 7.3 An Affected Party cannot claim relief or terminate pursuant to clause 18.17 as a result of a failure or delay by any other person in the performance of that other person's obligations under a contract with the Affected Party (unless that other person is itself prevented from or delayed in complying with its obligations as a result of a Force Majeure Event).

- 7.4 The Affected Party shall promptly give the other party written notice of the Force Majeure Event. The notification shall include details of the Force Majeure Event together with evidence of its effect on the obligations of the Affected Party, and any action the Affected Party proposes to take to mitigate its effect.
- 7.5 As soon as practicable following the Affected Party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Deed. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 7.6 The Affected Party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Deed. Following such notification, this Deed shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless otherwise agreed by the parties.

SECTION C - FINANCIAL AND LIABILITY PROVISIONS

8. COSTS AND EXPENSES

- 8.1 The Contractor shall be solely responsible for the payment of all costs and expenses that it incurs in relation to its compliance with this Deed.
- 8.2 Subject to the provisions of clause 11.7 and paragraph 2.6 of Schedule 4 (GCN Compliance), the Authority shall be solely responsible for the payment of all costs and expenses that the Authority incurs in relation to its compliance with this Deed.

9. LIABILITY

- 9.1 Neither party limits its liability for:
- 9.1.1 death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors (as applicable); or
 - 9.1.2 fraud or fraudulent misrepresentation by it or its employees; or

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- 9.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.
- 9.2 Subject to clause 9.1, neither party will be liable to the other party for:
- 9.2.1 any indirect, special, economic or consequential loss or damage; or
- 9.2.2 any loss of profits, turnover, contracts, or business opportunities, expenditure of time by managers and employees, business, goodwill, business interruption, anticipated savings, wasted expenditure, data or destruction of data.
- 9.3 Subject to clauses 9.1 and 9.2, the Contractor's liability per event or series of connected events shall be limited to £2,000,000.00.
- 9.4 Subject to clauses 9.1 and 9.2, the Contractor's aggregate liability in each Contract Year shall be limited to £5,000,000.00.
- 9.5 Subject to clauses 9.1 and 9.2, the Authority's liability per event or series of connected events shall be limited to £1,000,000.
- 9.6 Subject to clauses 9.1 and 9.2, the Authority's aggregate liability in each Contract Year shall be limited to £2,000,000.
- 9.7 The Contractor shall take out and shall maintain throughout the Term, insurances with a reputable insurer sufficient to cover its liability risk as set out in this Deed. The Contractor shall provide evidence of such insurances where required by the Authority.
- 9.8 Nothing in this clause 9 shall act to reduce or affect a party's general duty to mitigate its loss.

SECTION D - GOVERNANCE

10. WARNING NOTICES AND INCREASED MONITORING

- 10.1 Without prejudice to the other rights or remedies of the Authority, if at any time:
- 10.1.1 the Contractor has committed any material Default of its obligations under this Deed;

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- 10.1.2 there is an act or omission of the Contractor which entitles the Authority to terminate in accordance with clause 18.4;
- 10.1.3 there is a Default by the Contractor which results in a serious security breach (as the Authority shall reasonably determine);
- 10.1.4 the Contractor has failed to comply with any reasonable additional requirement, including as to a timetable, relating to the protection of Critical National Infrastructure as required by the Authority pursuant to clause 6.9;
- 10.1.5 the Contractor fails to meet the obligations set out in clause 6.11 (Minimum Service Levels), and to provide the GCN Services in accordance with the Minimum Service Levels;
- 10.1.6 the Contractor or the GCN Services are materially non-compliant with the obligations in Schedule 2 (GCN Service Requirements);
- 10.1.7 the Contractor or the GCN Services are in material Default of the provisions of Schedule 3 (GCN Statement of Fairness);
- 10.1.8 the Contractor or the GCN Services are in material Default of the provisions of Schedule 4 (GCN Compliance);

then without limitation to its other rights and remedies, the Authority may, but is not obliged to, serve a written notice (a "**Warning Notice**") to the Contractor setting out the matter or matters giving rise to such notice. Any such notice shall state on its face that it is a 'Warning Notice'.

- 10.2 If the Contractor receives a Warning Notice, the Authority may, by written notice to the Contractor, reasonably increase the level of its monitoring of the Contractor in addition to that set out in clause 6.12 (Management Information), or (at the Authority's option) require the Contractor to increase the level of its monitoring of its own performance of its obligations under this Deed, in respect of the breach to which the Warning Notice relates until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that it shall perform (and is capable of performing) its obligations in respect of the matter for which the Warning Notice was issued.

- 10.3 The Authority may require the Contractor to re-submit the relevant parts of the GCN Services for Compliance Verification where any of the events listed in clause 10.1 occurs, by giving the Contractor not less than 10 Working Days prior written notice.
- 10.4 The Authority shall be entitled to, but is not obliged to, publish Warning Notices issued to the Contractor. Any Warning Notice so published shall be redacted to remove any Contractor's Confidential Information.

11. AUDIT

- 11.1 Except where an audit is imposed on the Authority or the Contractor by a Regulatory Body, the Authority may audit the Contractor not more than once in any Contract Year for the following purposes:
 - 11.1.1 in relation to an audit of the Authority;
 - 11.1.2 to carry out the audit and certification of the Authority's accounts;
 - 11.1.3 to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - 11.1.4 to review the Contractor's compliance with the Freedom of Information Act 2000 in accordance with clause 15 (Freedom of Information);
 - 11.1.5 to review the Contractor's compliance with the Law applicable to this Deed and the GCN Services;
 - 11.1.6 to verify the accuracy and completeness of any management information delivered or required by this Deed;
 - 11.1.7 to verify that the Contractor is complying with the provisions of this Deed.
- 11.2 The Authority may appoint third party organisation(s) to undertake audits on its behalf. The Authority shall endeavour to (but is not obliged to) provide at least 10 Working Days prior written notice of its intention to conduct an audit and the identity of its intended auditor.
- 11.3 The parties agree that any third party auditor appointed by the Authority shall be suitably qualified, independent of the Contractor, not a Competitor of the

Contractor and not a GCNSP. A “Competitor” means, for the purposes of this clause, a person who alone, or with any member of its group is a direct significant competitor in the United Kingdom with the fixed network telecommunications business carried on by the Contractor Group in the United Kingdom.

- 11.4 If the Contractor reasonably objects to the identity of the auditor within 5 Working Days of being notified, either party shall be entitled to request the President of the ICAEW (or other professional body by the agreement of the parties), to nominate a replacement auditor in accordance with the provisions of clauses 11.2 and 11.3. Unless the Contractor notifies its objection to the Authority in accordance with the provisions of this clause, it hereby gives its irrevocable consent to the appointed organisation(s) conducting the audit in accordance with clauses 11.1 to 11.9 inclusive.
- 11.5 Where the Authority conducts an audit or appoints an auditor pursuant to clauses 11.1 and 11.2, it shall use all reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor's business and operations or delay the provision of the GCN Services.
- 11.6 Subject to the Authority's obligations of confidentiality set out in clause 16 (Confidentiality), the Contractor shall, where required by the Authority, provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 11.6.1 provision of the information referred to in paragraph 5.5 of Schedule 3 (GCN Statement of Fairness);
 - 11.6.2 provision of all other information, data and Records relating to the GCN or GCN Services required by the Authority, provided that the Contractor shall not be obliged to provide information which relates to the Contractor's or a DNSP's input costs, capital and operating costs, overheads, revenue, margins and profits;
 - 11.6.3 reasonable access to any sites controlled by the Contractor, and to any equipment used (whether exclusively or non-exclusively) in the performance of the GCN Services, and only to the extent that the Contractor is able to grant such access;

11.6.4 reasonable access to the Contractor's IT systems used (whether exclusively or non-exclusively) in the performance of the GCN Services; and

11.6.5 reasonable access to Contractor Personnel.

11.7 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 11, unless the audit identifies a material Default by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.

11.8 If an audit identifies that the Contractor has failed to perform its obligations under this Deed in any material manner, the parties shall agree and implement a remedial plan. The Authority may require the Contractor to undergo Compliance Verification of any amendments to the GCN Services in accordance with paragraph 4.6 of Schedule 4 (GCN Compliance).

11.9 Where an audit identifies that the Contractor has failed to perform its obligations under this Deed in any material manner and does not implement an approved remedial plan in accordance with clause 11.8, or if it repeatedly fails an audit, the Authority may terminate this Deed.

12. RECORDS

The parties shall comply with the provisions of Schedule 7 (Records Provision) in relation to the retention of Records and their provision to the Authority.

13. CHANGE CONTROL

13.1 Subject to clauses 13.2 to 13.4 below, if either party wishes to make any changes to the terms of this Deed it shall submit a revised Deed to the other who may make such comments as it thinks fit. Both parties shall use all reasonable endeavours to agree the amendment provided always that no change shall bind either party unless agreed between the parties in writing.

13.2 The Contractor acknowledges that the documents referred to in Schedule 2 (GCN Service Requirements) and any documents referred to therein shall be subject to amendment in accordance with the PSN Document Management and Change Control. The Authority shall consult with GCNSPs, and shall ensure that there is a reasonable period of time given in the process for such consultation, and the

Authority shall give due consideration to the cost impact and other impacts (including the timescale for implementing changes) on GCN Service Providers and Candidate GCN Service Providers. Unless agreed otherwise by the Contractor, amendments to the documents referred to in Schedule 2 (GCN Service Requirements) made pursuant to this clause shall only be binding on the Contractor to the extent that they apply to all GCN Service Providers. The Authority shall notify the Contractor of any revisions to a document varied in accordance with this process.

- 13.3 Notwithstanding the provisions of clause 13.2, the Authority shall first consult with the Contractor, but notwithstanding such consultation shall be entitled in its absolute discretion to amend the terms of Schedule 2 (GCN Service Requirements), including the documents referred to therein with immediate effect upon giving the Contractor written notice, where any such amendment is required due to a matter of national security. Following the Authority issuing a notice pursuant to this clause, the parties' representatives shall meet and agree a plan to implement the changes. The Authority may require Compliance Verification of any amendments to the GCN Services in accordance with paragraph 4.6 of Schedule 4 (GCN Compliance).
- 13.4 No further formal written agreement of the Contractor is required for any variation in a referenced document made in accordance with clause 13.2 and 13.3. The Authority hereby pays the Contractor the sum of £1.00, receipt of which is hereby acknowledged by the Contractor, in consideration of the Contractor's agreement to be bound by all amendments and variations detailed in the referenced documents made in accordance with clause 13.2 or 13.3 during the Term.

SECTION E - INTELLECTUAL PROPERTY, FOIA AND CONFIDENTIALITY

14. INTELLECTUAL PROPERTY RIGHTS

- 14.1 Except as expressly set out in this Deed, the Contractor shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including:
- 14.1.1 the Authority's documentation, processes and procedures, standards and know-how ("Licensed Materials"); and

14.1.2 any part of the PSN Materials.

Where the Contractor acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out here, it shall assign in writing such Intellectual Property Rights as it has acquired to the Authority where required by the Authority at any time.

14.2 The Contractor hereby assigns to the Authority, with full title guarantee, title to and all rights and interest in any parts of the PSN Materials created by the Contractor or shall procure that the first owner of the PSN Materials where such first owner is a Sub-contractor, assigns them to the Authority on the same basis. This assignment shall take effect on the Effective Date or as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant PSN Materials, as appropriate.

Licences to the Licensed Materials and PSN Materials granted by the Authority

14.3 The Authority hereby grants to the Contractor a non-exclusive, non-assignable, non-transferable licence during the Term to use the Licensed Materials. This licence includes the right to grant sub-licences to Sub-contractors provided that any such Sub-contractor has entered into a confidentiality undertaking with the Contractor on the same terms as set out in clause 16 (Confidentiality), and is granted solely to the extent necessary for performing the GCN Services in accordance with this Deed. The Contractor shall not, and shall procure that the Sub-contractors do not, use the Licensed Materials for any other purpose.

14.4 The Authority hereby grants to the Contractor a non-exclusive, irrevocable perpetual, assignable, transferable licence to use the PSN Materials for any purpose. This licence includes the right to grant sub-licences to any third party for any purpose.

15. FREEDOM OF INFORMATION

15.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations, and shall provide reasonable assistance and cooperation to the Authority to enable the Authority to comply with its Information disclosure obligations.

15.2 The Contractor shall and shall procure that its Sub-contractors shall:

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- 15.2.1 transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receiving a Request for Information;
 - 15.2.2 provide the Authority with a copy of all Information covered by any such Request for Information as is referred to in clause 15.1 in its possession, or power in the form that the Authority requires within 5 Working Days (or such other longer period as the Authority may specify) of the Authority's request; and
 - 15.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 15.3 The Authority shall be responsible for determining in its absolute discretion, and notwithstanding any other provision in this Deed or any other agreement, whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 15.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 15.5 The Contractor acknowledges that (notwithstanding the provisions of clause 16 (Confidentiality)) the Authority may, acting in accordance with the Secretary of State's Code of Practice On The Discharge Of Public Authorities' Functions Under Part I of the Freedom of Information Act 2000 ("**the DoPAF Code**", be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the GCN Services:
- 15.5.1 in certain circumstances without consulting the Contractor; or
 - 15.5.2 following consultation with the Contractor and having taken their views into account;
- provided always that where clause 15.3 and 15.5.1 applies the Authority shall, in accordance with any recommendations of the DoPAF Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw

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the disclosure to the Contractor's attention after any such disclosure.

- 15.6 The Contractor shall ensure that all Information is retained for disclosure in accordance with Schedule 7 (Records Provision) and shall permit the Authority to inspect such records as requested from time to time.
- 15.7 The Contractor acknowledges that the Commercially Sensitive Information listed in Schedule 8 (Commercially Sensitive Information) is of indicative value only and that the Authority may be obliged to disclose it in accordance with clause 15.5.

16. CONFIDENTIALITY

- 16.1 Subject to clauses 3.2 and 15 (Freedom of Information), and except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Deed, each party shall:
 - 16.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and
 - 16.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.
- 16.2 Clause 16.1 shall not apply to the extent that:
 - 16.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause 15 (Freedom of Information);
 - 16.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 16.2.3 such information was obtained from a third party without obligation of confidentiality;
 - 16.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Deed; or
 - 16.2.5 such information was independently developed without access to the other party's Confidential Information.

- 16.3 The Contractor may only disclose the Authority's Confidential Information to the Contractor Personnel who are directly involved in the provision of the GCN Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 16.4 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Deed.
- 16.5 The Contractor shall comply with the provisions of paragraph 5 of Schedule 3 (GCN Statement of Fairness).
- 16.6 Nothing in this Deed shall prevent the Authority from disclosing the Contractor's Confidential Information:
- 16.6.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Contractor's Confidential Information shall be entitled to further disclose the Contractor's Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
 - 16.6.2 to any consultant, contractor or other person engaged by the Authority (excluding other GCNSPs, and subject to written obligations of confidentiality), or any person conducting an Office of Government Commerce gateway review who has need to know the Contractor's Confidential Information;
 - 16.6.3 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - 16.6.4 to an entity pursuant to clause 18.11 (Termination for Cause by the Contractor).
- 16.7 The Authority shall use all reasonable endeavours to ensure that any government department, employee, or third party to whom the Contractor's Confidential

Information is disclosed pursuant to clause 16.6 is made aware of the Authority's obligations of confidentiality.

- 16.8 Nothing in this clause 16 shall prevent either party from using any techniques, ideas or know-how gained during the performance of this Deed in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information, breach of clause 16.5, or an infringement of Intellectual Property Rights.

SECTION F - TERM AND TERMINATION AND EXIT

17. TERM

This Deed will begin on the Effective Date and will continue unless terminated at an earlier date by operation of Law or in accordance with clause 18 (Termination Rights).

18. TERMINATION RIGHTS

Termination for Cause by the Authority

- 18.1 The Authority may, subject to clause 18.3, terminate this Deed for cause by giving written notice of termination to the Contractor if one or more of the circumstances set out in clause 18.4 exist.
- 18.2 Where the Authority is terminating this Deed for a material Default of this Deed or one of the specific provisions in clauses 18.4.2, 18.4.3 or 18.4.9, it may rely on a single material Default or on a number of Defaults or repeated Defaults that taken together constitute a material Default.
- 18.3 Where a material Default is capable of remedy the Contractor shall have 20 Working Days to remedy the Default. If the Contractor fails to remedy the Default within the 20 Working Days, then termination shall occur on the last day of the period specified by the Authority in its written notice.
- 18.4 The circumstances giving rise to the Authority's right to terminate for cause are:
- 18.4.1 the Contractor fails to successfully complete the Compliance Verification process within 12 months of the date of this Deed in accordance with clause 5.3, or fails to maintain a current valid GCN Compliance Certificate

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at any time during the Term following the date the Authority first issues a GCN Compliance Certificate;

- 18.4.2 the Contractor is in material Default of clause 3.1 (Fit and Proper Person);
- 18.4.3 the Contractor is in material Default of clauses 6.2, 6.6, Schedule 2 (GCN Service Requirements) or Schedule 3 (GCN Statement of Fairness);
- 18.4.4 the Contractor breaches paragraph 5.1 of Schedule 5 (Financial Distress);
- 18.4.5 there is a serious breach of security, or there is a breach of national security in relation to the GCN Services for which the Contractor is materially responsible in whole or in part;
- 18.4.6 the Contractor is in material Default which has not been remedied in accordance with clause 18.3;
- 18.4.7 the Contractor accrues 2 Warning Notices within any 12 month period;
- 18.4.8 the Contractor fails an audit in a material manner (and does not implement an approved remedial plan), or it repeatedly fails an audit pursuant to clause 11.9;
- 18.4.9 the Contractor is in material Default of clause 15 (Freedom of Information) or clause 16 (Confidentiality);
- 18.4.10 the Contractor breaches clause 23.2 (Prevention of Corruption);
- 18.4.11 an Insolvency Event affecting the Contractor occurs;
- 18.4.12 the Contractor makes any public announcement or a director of the board of directors of the Contractor advises an officer of the Authority that the Contractor is no longer going to continue to develop or to offer the provision of GCN Services, and there is evidence that such announcement will materially adversely impact the ability of the Contractor to provide the GCN Services; or
- 18.4.13 there is an act or omission of the Contractor which results in material damage to the reputation of the Authority, such that an ordinary and reasonable person would think the worse of it, or it would be exposed to ridicule in relation to this Deed.

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- 18.5 The rights of the Authority (to terminate or otherwise) under clause 18.4 are in addition (and without prejudice) to any other right or remedy which the Authority may have to claim the amount of loss or damage suffered by it on account of the acts or omissions of the Contractor (or to take any action other than termination of this Deed).

Termination by the Authority on a Change of Control

- 18.6 The Authority may terminate this Deed without penalty pursuant to clause 3.3 (Change of Control) by giving the Contractor written notice in accordance with clause 3.3. The effective date of termination shall occur on the last day of the period specified by the Authority in its written notice.

Termination by the Authority on a Change to this Deed

- 18.7 The Authority may terminate this Deed without penalty if it makes a change to the documents listed in Schedule 2 (GCN Service Requirements) in accordance with clause 13.2 or 13.3 and the Contractor does not implement (in all material respects) those changes in accordance with the timescales for implementation established by the Authority having undertaken the consultation required by clause 13.2 or clause 13.3 as appropriate.

Termination for Convenience by the Authority

- 18.8 The Authority may terminate this Deed for convenience and without penalty by giving the Contractor not less than 120 Working Days' advance written notice on or at any time after 30 September 2013 save that the Authority shall only be entitled to exercise this right in circumstances in which it is also terminating at the same time and on an equivalent basis its equivalent relationships with all other GCN Service Providers. Such termination shall have the effect set out in clause 19.4 below.
- 18.9 The rights of the Authority (to terminate or otherwise) under clauses 18.6, 18.7 and 18.8 are in addition to any other rights of the Authority under this Deed, and shall not affect any accrued rights, claims, remedies or rights of action that the Authority may have under this Deed which are existing at the effective date of termination of this Deed.
- 18.10 If the Authority terminates the Deed under clauses 18.6, 18.7 and 18.8, the Contractor will have no rights, claims, remedies or rights of action against the Authority arising from such termination.

Termination for Cause by the Contractor

- 18.11 The Contractor may terminate this Deed by giving the Authority 100 Working Days written notice where the Authority is in material Default, which it has failed to remedy within 20 Working Days of receiving written notice, or the Authority commits a material breach of this Deed which is irremediable.
- 18.12 The rights of the Contractor (to terminate or otherwise) under clause 18.11 are in addition (and without prejudice) to any other right or remedy which the Contractor may have to claim the amount of loss or damage suffered by it on account of the acts or omissions of the Authority (or to take any action other than termination of this Deed).

Termination for Convenience by the Contractor

- 18.13 The Contractor may terminate this Deed for convenience and without penalty by giving the Authority not less than 120 Working Days' advance written notice. The Contractor shall be solely responsible for notifying its customers.
- 18.14 The Contractor shall give the Authority advance written notice of the expiry or

termination of any of its GCN Service Agreements of not less than the lesser of:

18.14.1 60 Working Days;

18.14.2 the notice period specified in the relevant GCN Service Agreement; or

18.14.3 the actual notice received from the relevant DNSP.

18.15 The parties shall not exercise or purport to exercise any right to terminate this Deed (or accept any repudiation of this Deed) except as expressly set out in this Deed.

Termination by Consent

18.16 The parties may terminate this Deed by written agreement, including determining any notice period (if any) for when any such termination shall be effective, at any time.

Termination for Continuing Force Majeure Event

18.17 Subject to clauses 7.2 and 7.3, either party may by written notice to the other terminate this Deed forthwith without penalty if a Force Majeure Event prevents, or has prevented to a material degree, the performance of:

18.17.1 for the Contractor, the GCN Services; or

18.17.2 for the Authority, its obligations under this Deed;

and has endured for a continuous period of 120 Working Days or more.

18.18 Subject to clause 19 (Consequences of Expiry or Termination), the costs of termination incurred by the parties shall lie where they fall if either party terminates or partially terminates this Deed pursuant to clause 18.17 (Termination for Continuing Force Majeure Event).

19. CONSEQUENCES OF EXPIRY OR TERMINATION

19.1 Save as set out in clause 19.4, the Contractor shall ensure that all GCN Services Agreements are novated, assigned or otherwise transferred to another GCN Service Provider (the "Replacement GCN Service Provider") prior to the effective date of expiry or termination of this Deed. The Contractor shall use best endeavours to

ensure an orderly, uninterrupted and timely transition of the GCN Services to the Replacement GCN Service Provider.

19.2 Except where this Deed is terminated in accordance with clause 18.8 (Termination for Convenience by the Authority) notwithstanding the date of expiry or termination of this Deed, the Contractor shall not cease the provision of the GCN Services in accordance with this Deed,

19.2.1 where the Contractor has terminated the Deed pursuant to clause 18.11 (Termination for Cause by the Contractor), until a reasonable time has been allowed for the transition of the GCN Services to a Replacement GCN Services Provider taking account of usual commercial lead times for the commencement of similar services and

19.2.2 in all other circumstances until a transition of the GCN Services to a Replacement GCN Service Provider has been successfully completed and confirmed in writing by all relevant DNSPs.

19.3 With the exception of clause 18.11 (Termination for Cause by the Contractor), the Authority shall not make a payment to the Contractor on termination or expiry of this Deed.

19.4 Where the Authority terminates this Deed in accordance with clause 18.8 (Termination for Convenience by the Authority), this Deed will expire with effect from the date specified in such notice, and the Contractor:

19.4.1 may (but shall not be obliged to under the terms of this Deed) continue to provide the GCN Services;

19.4.2 shall not be obliged to novate, assign or otherwise transfer its GCN Service Agreements in accordance with clause 19.1; and

19.4.3 shall not refer to itself as having GCN Compliance Certification for its GCN Services, shall not be classed as a 'GCN Service Provider' or a 'Candidate GCN Service Provider', and shall not refer to itself as such.

19.5 The provisions of clauses 9 (Liability), 12 (Records), 14 (Intellectual Property Rights), 15 (Freedom of Information), 16 (Confidentiality), 19 (Consequences of Expiry or Termination), 24 (Severance), 26 (Entire Agreement), 27 (Third Party Rights) and 29 (Publication) 30 (Governing Law and Jurisdiction) and the

provisions of Schedule 1 (Definitions), Schedule 6 (Dispute Resolution Procedure), Schedule 7 (Records Provision) and Schedule 8 (Commercially Sensitive Information) and Schedule 9 (Exceptions and Additions) (where relevant), shall survive the termination or expiry of this Deed.

SECTION G - MISCELLANEOUS AND GOVERNING LAW

20. ASSIGNMENT AND NOVATION

- 20.1 The Contractor shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Deed without the prior written consent of the Authority (such consent not be unreasonably withheld or delayed), save that the Contractor may transfer its rights or obligations (or both) to a member of its Contractor Group without consent provided that it notifies the Authority that it has done so;
- 20.2 The Authority may assign, novate or otherwise dispose of this Deed (and any associated third party licences) to any other body which substantially performs any of the functions in respect of the PSN that previously had been performed by the Authority. The Authority shall notify the Contractor in advance of an assignment, novation or disposal of this Deed.
- 20.3 A change in the legal status of the Authority shall not (subject to clause 20.4) affect the validity of this Deed, and this Deed shall be binding on any successor body to the Authority.
- 20.4 If this Deed is assigned, novated or otherwise disposed of to a body which is not a Contracting Authority, or a body which is not a Contracting Authority succeeds the Authority, (both "transferee" in the rest of this clause), and the transferee suffers an Insolvency Event, the Contractor shall be entitled to treat this event as a Termination for Convenience by the Authority with immediate effect and the provisions of clause 19.4 shall apply.

21. WAIVER AND CUMULATIVE REMEDIES

- 21.1 The rights and remedies provided by this Deed may be waived only in writing by the relevant Representative in a manner that expressly states that a waiver is intended, and such waiver shall only be operative with regard to the specific circumstances referred to.

21.2 Unless a right or remedy of the Authority is expressed to be an exclusive right or remedy, the exercise of it by the Authority is without prejudice to the Authority's other rights and remedies. Any failure to exercise or any delay in exercising a right or remedy by either party shall not constitute a waiver of that right or remedy or of any other rights or remedies.

21.3 The rights and remedies provided by this Deed are cumulative and, unless otherwise provided in this Deed, are not exclusive of any right or remedies provided at law or in equity or otherwise under this Deed.

22. RELATIONSHIP OF THE PARTIES

22.1 Nothing in this Deed is intended to create a partnership, or legal relationship of any kind that would impose liability upon one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other party. Neither party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other party.

23. PREVENTION OF CORRUPTION

23.1 The Contractor shall not:

23.1.1 offer or agree to give any person working for or engaged by the Authority or any other Crown Body or Contracting Authority any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to this Deed, or any other agreement between the Contractor and the Authority or any Crown Body or Contracting Authority, including its award to the Contractor and any of the rights and obligations contained within it; nor

23.1.2 enter into this Deed if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority or any other Crown Body or Contracting Authority by or for the Contractor, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority before execution of this Deed.

23.2 If the Contractor (including any contractor employee, Sub-contractor or agent, in all cases whether or not acting with the Contractor's knowledge) breaches:

23.2.1 clause 23.1; or

23.2.2 the Bribery Act 2011 in relation to this Deed or any other contract with the Authority or any Crown Body or Contracting Authority,

the Authority may terminate this Deed by written notice with immediate effect.

23.3 Any termination under clause 23.2 shall be without prejudice to any right or remedy which has already accrued, or subsequently accrues, to the Authority.

23.4 Any Dispute relating to:

23.4.1 the interpretation of clauses 23.1 to 23.3 (inclusive); or

23.4.2 the amount or value of any gift, consideration or commission,

shall be determined by the Authority and the decision shall be final and conclusive.

24. SEVERANCE

If any provision of this Deed is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed without effect to the remaining provisions. If a provision of this Deed that is fundamental to the accomplishment of the purpose of this Deed is held to any extent to be invalid, the Contractor and the Authority shall immediately commence good faith negotiations to remedy that invalidity.

25. FURTHER ASSURANCES

Each party undertakes at the request of the other, and at the cost of the requesting party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Deed.

26. ENTIRE AGREEMENT

This Deed (together with all of the documents listed in Schedule 2 (GCN Service Requirements) to this Deed) constitutes the entire agreement and understanding between the parties in respect of the matters dealt within it and supersedes, cancels and nullifies any previous agreement between the parties in relation to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination. Nothing

in this clause 26 shall operate to exclude any liability for fraud or fraudulent misrepresentation.

27. THIRD PARTY RIGHTS

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

28. REPRESENTATIVES AND NOTICES

28.1 The parties Representatives are as follows:

28.1.1 the Authority's Representative is Craig Eblett, PSN Change Director. The address for contractual notice is: Cabinet Office, 22 Whitehall, London SW1A 2DD. Email: craig.eblett @ cabinet-office.gsi.gov.uk.

28.1.2 The Contractor's Representative is []. The address for contractual notices is: []. Email: []

The parties may amend their Representatives by providing the other party with written notice specifying the change at any time.

28.2 The Contractor's Representative is sufficiently senior within the organisation, and shall be granted sufficient authority by that party, to ensure full cooperation in relation to the operation and the management of this Deed.

28.3 Any notices given under or in relation to this Deed shall be in writing, signed by or on behalf of the party giving it and shall be served by delivering it personally or by sending it by recorded delivery or registered post or by email to the address and for the attention of the relevant party notified for such purpose or to such other address as that party may have stipulated in accordance with this clause.

28.4 A notice shall be deemed to have been received:

28.4.1 if delivered personally, at the time of delivery;

28.4.2 in the case of recorded delivery or registered post, on the date actual delivery occurred as detailed in the records of the postal carrier; or

28.4.3 in the case of email, at the time that the email enters the IT system of the intended recipient provided that no error message indicating failure to

deliver has been received by the sender, and provided further that within 24 hours of transmission a hard copy of the email signed by or on behalf of the person giving it is sent by recorded delivery or registered post to the intended recipient.

28.5 In proving service, it shall be sufficient to prove that the envelope containing the notice was addressed to the relevant party at its address previously notified for the receipt of notices (or as otherwise notified by that party) and delivered either to that address or into the custody of the postal authorities as recorded delivery or registered post.

29. PUBLICATION

29.1 The parties acknowledge that, except for any information which is declared by the Authority to fall within one or more of the exceptions in clause 29.2 below, the content of this Deed is not Confidential Information. Notwithstanding any other term of this Deed, the Contractor hereby gives its consent for the Authority to publish the Deed in its entirety, including from time to time agreed changes to the Deed, and issued Warning Notices (subject to clause 10.4), to the general public.

29.2 The Authority may, at its sole discretion, redact information from the Deed prior to publishing for one or more of the following reasons:

29.2.1 national security;

29.2.2 personal data;

29.2.3 information protected by intellectual property law;

29.2.4 information which is not in the public interest to disclose (under a Freedom of Information Act analysis, and in accordance with clauses 15.3 and 15.5);

29.2.5 third party confidential information;

29.2.6 IT security; or

29.2.7 prevention of fraud.

29.3 The Authority may consult with the Contractor to inform its decision regarding any redactions, but the Authority shall have the final decision in its absolute discretion.

29.4 The Contractor shall give all reasonable assistance and cooperation to the Authority to enable the Authority to publish this Deed.

30. GOVERNING LAW AND JURISDICTION

This Deed shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS of which this Deed has been duly executed by the parties.

Executed as a deed, but not delivered until the)
first date specified on page 1, by the **CABINET**)
OFFICE:)

Signature

Name (block capitals)
[Role]

Signature

Name (block capitals)
Witness

Address:

Executed as a deed, but not delivered until the)
first date specified on page 1, by the)
CONTRACTOR:)

Signature

Name (block capitals)
Title **Authorised Attorney / Director**

Signature

Name (block capitals)
Title **Authorised Attorney / Director**

Address:

SCHEDULE 1

DEFINITIONS

The following definitions shall have the following meanings in this Deed.

| | |
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| "Affected Party" | the party seeking to claim relief in respect of a Force Majeure Event referred to in clause 7 (Force Majeure); |
| "Authority's Confidential Information" | all personal data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Authority, any Crown Body, or any other Contracting Authority, including all Intellectual Property Rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential; |
| "Authority's Representative" | as specified in clause 28.1; |
| "Candidate GCNSP" | an entity that intends to provide GCN services, and that has signed its Deed of Undertakings; |
| "Candidate DNSP" | an entity that intends to provide DNSP Services; |
| "Case Summary" | a concise summary of a party's case in a Dispute subjected to mediation; |
| "Centre for Effective Dispute Resolution" or "CEDR" | the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU; |
| "Centre for the Protection of National Infrastructure" or "CPNI" | the UK Government authority that provides protective security advice to businesses and organisations across the national infrastructure, further details of which are available at http://www.cpni.gov.uk ; |
| "CESG" | the UK Government's National Technical Authority for Information Assurance; |
| "Change and Release Management" | the document of the same name published by the |

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| | Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2; |
| "Change of Control" | a change in Control of the Contractor or the Contractor's Parent Company; |
| "Commercially Sensitive Information" | the information (i) listed in Schedule 8 (Commercially Sensitive Information); or (ii) notified by the Contractor to the Authority in writing which has been clearly marked as Commercially Sensitive Information comprised of information which is commercially sensitive in nature and/or a trade secret, and relates to the Contractor, its Intellectual Property Rights, or its business, provided by the Contractor to the Authority in confidence for the period set out in that schedule or notification; |
| "Compliance Criteria" | the criteria to demonstrate the successful capability to provide interconnection and GCN Services in accordance with this Deed and the Law and as further detailed in the documents referred to in Schedule 2 (GCN Service Requirements); |
| "Compliance Review Schedule" | the document of the same name published by the Authority in accordance with paragraph 4.3 of Schedule 4 (GCN Compliance); |
| "Compliance Verification" | the processes of review and assurance to verify that the GCN Services satisfy the requirements of this Deed, as set out in Schedule 4 (GCN Compliance); |
| "Confidential Information" | the Authority's Confidential Information and/or the Contractor's Confidential Information; |
| "Contract Year" | a period of 12 months commencing on the Effective Date, or on the anniversary of the Effective Date; |
| "Contracting Authority" or "Contracting Authorities" | any contracting authority as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the |

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Authority;

"Contractor Group"

the Contractor and every other company which is from time to time a subsidiary or holding company of the Contractor or a subsidiary of any such holding company (and the terms "**subsidiary**" and "**holding company**" shall have the meanings given to them by section 1159 and Schedule 6 of the Companies Act 2006 but for the purposes of section 1159(1) a company shall be treated as a member of another company even if any shares in that other company are registered in the name of (i) a person by way of security (where the company has provided the security) or (ii) a person as nominee for the company);

"Contractor Personnel"

all employees, agents, consultants and contractors and Sub-contractors of the Contractor;

"Contractor's Confidential Information"

any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including Intellectual Property Rights, together with all 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, including Commercially Sensitive Information, but excluding:

- (a) Contractor's charges and pricing information including discounts if applicable, (but excluding information as to input costs, capital and operating costs, overheads, revenue, margins and profits);
- (b) any performance information relating to the Contractor's provision of the GCN Services;
- (c) any information relating to vPOC availability, incidents, problems, changes or events relating to the Contractor's performance of the GCN Services; and

(d) any information in the public domain;

"Contractor's Representative"

as specified in clause 28.1;

"Control"

a person or entity that possesses, directly or indirectly, the power to influence, direct or cause the influence or direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise);

"Critical National Infrastructure"

within the nine national infrastructure sectors (energy, food, water, transport, communications, government, emergency services, health and finance) there are critical elements (these may be physical or electronic), the loss or compromise of which would have a major detrimental impact on the availability or integrity of essential services, leading to severe economic or social consequences or to loss of life. These critical elements of infrastructure comprise the nation's critical national infrastructure;

"Crown Body"

any department, office or agency of the Crown;

"Customer(s)"

the PSN Service Consumers who have achieved PSN Compliance Certification for their customer environments and who hold PSN Supply Agreement(s) with PSN Service Providers for the services concerned;

"Deed of Undertakings"

the agreements of the same title between a Candidate GCNSP or a GCN Service Provider and the Authority in relation to the provision of GCN services (including this Deed);

"Default"

any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant party, its employees, servants, agents or Sub-contractor's in connection with or in relation to the subject-matter of this Deed, and in respect of which such party is liable

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| | to the other; |
| "Direct Network Service Providers" or "DNSP" | PSN Service Providers that have fulfilled the terms of the PSN Code of Interconnection and which may as a result connect directly to the GCN; |
| "Dispute Resolution Procedure" | as set out in Schedule 6 (Dispute Resolution Procedure); |
| "Dispute Resolution Timetable" | the Standard Dispute Timetable or the Expedited Dispute Timetable; |
| "Dispute" | any dispute, difference or question of interpretation arising out of or in connection with the provision of the GCN Services between the Contractor and the Authority; |
| "DNSP Compliance Certificate" and "DNSP Compliance Certification" | the certificate awarded to the individual DNSP for DNSP services. An overview of what it means to be DNSP compliant, why it is important, and, how DNSP Compliance Certification is achieved and maintained is detailed in the document PSN Compliance; |
| "DNSP Services" | a PSN Service which includes a direct link to the GCN; |
| "Effective Date" | the last date of signature of this Deed; |
| "Environmental Information Regulations" | the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant government department in relation to such regulations; |
| "Expedited Dispute Timetable" | the reduced timetable for the resolution of Disputes set out in the Appendix to Schedule 6 (Dispute Resolution Procedure) to be used in accordance with the provisions of Schedule 6 (Dispute Resolution Procedure); |
| "Financial Distress Event" | the occurrence of one or more of the events listed in paragraph 3.1 of Schedule 5 (Financial Distress); |
| "Financial Distress Service Continuity Plan" | a plan setting out how the Contractor will ensure the continued performance and delivery of the GCN Services, (and performance of GCN Service |

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“Fit and Proper Person”

Agreements) in accordance with this Deed in the event that the Contractor suffers a Financial Distress Event;

means an organisation which the Authority deems, in its sole discretion to be a suitable person to deliver GCN Services based on factors including but not limited to:

- the person’s capability to provide continuity of GCN Services;
- the person’s continuing contractual relationships with other GCN Service Providers in relation to the GCN;
- considerations of national security;
- the maintenance by the person of appropriate licenses from Regulatory Bodies;

"FOIA "

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 or relevant Government Department in relation to such legislation;

"Force Majeure Event"

any cause materially affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, acts of terrorism, riots, war or armed conflict, fire, flood, storm or earthquake, or disaster, but excluding:

- acts of UK Government (save for acts of the PSNA, or its successors in title or assigns, acting as the contracting party to this Deed);
- acts of UK Local Government (save for acts of UK Local Government acting as Customers, and save for acts of UK Local Government in relation to the granting of planning permits and consents);
- any industrial dispute relating to the Contractor, the Contractor Personnel; or

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- any other failure in the Contractor or the Sub-contractor's supply chain (save for failures of the Sub-contractor that were due to a Force Majeure Event, and save for failures by other providers of GCN services);

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| "GCN Compliance Certificate" | a certificate issued by the PSNA identifying that a GCN Service Provider has achieved GCN compliance for its GCN services; |
| "GCN Compliance Certification" | means that the GCN Service Provider has a current GCN Compliance Certificate in force; |
| "GCN Service Agreement" | the agreement between the Contractor and Direct Network Service Providers for the provision of access to and use of the GCN Services; |
| "GCN Service Description" | the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2; |
| "GCN Service Provider(s)" or "GCNSP(s)" | an entity that intends to or currently provides GCN services, and that has a current GCN Compliance Certificate for its GCN services (including GCN Services); |
| "GCN services" | reference to all GCN services provided by GCN Service Providers (including the GCN Services detailed herein); |
| "GCN Services" | the Contractor's services relating to its provision of the GCN, the Authority's requirements for which are set out in Schedule 2 (GCN Service Requirements) and Schedule 3 (GCN Statement of Fairness); |
| "Good Industry Practice" | the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector; |
| "Government Conveyance" | the total network of all GCN services provided by all |

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Network" or "GCN"

GCN Service Providers;

**"Incident and Problem
Management"**

the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2;

"Information"

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

"Infrastructure SIRO"

an individual appointed to speak for all Senior Information Risk Owners who share the common infrastructure of the PSN;

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"Insolvency Event"

the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than England and Wales) in relation to the relevant entity:

- the entity passing a resolution for its winding up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;
- the appointment of an administrator of or, the making of an administration order in relation to the entity or the appointment of a receiver or administrative receiver of, or an encumbrance taking possession of or selling, the whole or part of the entity's undertaking, assets, rights or revenue;
- the entity entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors;
- the entity being unable to pay its debts or being capable of being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- the entity entering into any arrangement, compromise or compromise or composition in satisfaction of its debts with its creditors.

However, a resolution by the relevant entity or a court order that such entity be wound up for the purpose of a bona fide reconstruction or amalgamation shall not amount to an Insolvency Event;

"Institute of Chartered Accountants

the Institute of Chartered Accountants of England and

**of England and Wales" or
"ICAEW"**

Wales of Chartered Accountants' Hall, Moorgate Place,
London EC2R 6EA;

"Intellectual Property Rights"

(a) copyright rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, and designs;

(b) applications for registration, and the right to apply for registration, for any of the rights listed in (a) that are capable of being registered in any country or jurisdiction; and

(c) all other rights having equivalent or similar effect in any country or jurisdiction;

"Interim Event Management"

the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2;

"Law"

any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

**"Management Information
Requirements"**

the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2 ;

"Mediator"

the independent third party appointed in accordance with paragraph 4.2 of Schedule 6 (Dispute Resolution Procedure);

"Minimum Service Levels"

the minimum levels of service required to be met, as prescribed in Schedule 2 (GCN Service Requirements);

"month" or "monthly"

a calendar month and monthly shall be interpreted

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| | accordingly; |
| "Notice of Dispute" | a written notice served by one party on the other, stating that the party serving the notice believes that there is a Dispute; |
| "Parent Company" | in relation to the Contractor, every other company which is from time to time a holding company of that company (and the term "holding company" shall have the meanings given to them by section 1159 and Schedule 6 of the Companies Act 2006, (but for the purposes of section 1159(1) a company shall be treated as a member of another company even if any shares in that other company are registered in the name of (i) a person by way of security (where the company has provided the security) or (ii) a person as nominee for the company); |
| "PSN Code of Interconnection, Code of Practice and Code of Connection" | the documents of the same name published by the Authority at the Effective Date, as may be amended by the Authority from time to time; |
| "PSN Compliance Certification" | the certification awarded to the individual Customer environments and PSN services (data and business services plus communications infrastructure) that make up the PSN environment. An overview of what it means to be PSN compliant, why it is important, and, how PSN Compliance Certification is achieved and maintained is presented in the document PSN Compliance, subject to amendment by the Authority from time to time in accordance with clause 13.2 |
| "PSN Compliance" | the document of the same name published by the Authority at the Effective Date, , subject to amendment by the Authority from time to time, in accordance with clause 13.2; |
| "PSN Document Management and Change Control " | the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with |

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| | clause 13.2 |
| "PSN Materials" | the PSN Operating Model and the codes relating to the PSN developed by the Authority and various providers of PSN related services, including but not limited to the PSN Code of Interconnection, Code of Practice and Code of Connection, and the documents listed in clause 1.5; |
| "PSN Operating Model" | the document titled PSN Operating Model Issue v1.2 dated 24 April 2009 as may be amended by the Authority from time to time; |
| "PSN Programme Director" | the PSN Programme Director of the Authority; |
| "PSN Service Consumers" | an organisation which uses PSN Services (including Customers); |
| "PSN Service Provider(s)" or "PSNSP(s)" | an organisation that is supplying or is approved to supply PSN Services in accordance with the PSN Code of Practice or Code of Interconnection. This includes DNSPs but not GCNSPs.; |
| "PSN Service(s)" | a service which is offered by a PSN Service Provider and for which a PSN Compliance Certification has been awarded by the Authority, and PSN Services shall be defined accordingly; |
| "Public Services Network Authority" or "PSNA" | the Public Services Network Authority, an office of the Cabinet Office; |
| "Public Services Network" or "PSN" | the network of networks delivered through multiple service providers, as further detailed in the PSN Operating Model; |
| "Rating Agencies" | the rating agencies listed in the Appendix to Schedule 5 (Financial Distress); |
| "Records" | the records referred to in part II of Schedule 7 (Records Provision), to be retained and provided to the Authority in accordance with part I of Schedule 7 (Records Provision), (whether such records are created by the |

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| | Contractor, any agent or Sub-contractor of the Contractor, the Authority or any third party); |
| "Regulatory Body" and "Regulatory Bodies" | those government departments and any regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Deed or any other affairs of the Contractor, including but not limited to the National Audit Office, Ofcom, the Office of Fair Trading, the Competition Commission, the Information Commission's Office and the EC Commission; |
| "Representative" | either or both of the Authority's Representative and the Contractor's Representative as set out in clause 28.1; |
| "Request(s) for Information" | a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations; |
| "Senior Information Risk Owner" or "SIRO" | the individual with specific responsibility for security and information assurance/risk matters, and leads a department's response to Data Handling Procedures in Government: Final Report and is responsible for approving any deviation from a Department's Information Risk policy; |
| "Service Management Framework" | the document of the same name published by the Authority at the Effective Date, subject to amendment by the Authority from time to time, in accordance with clause 13.2; |
| "Standard Dispute Timetable" | the standard timetable for the resolution of Disputes set out in the Appendix to Schedule 6 (Dispute Resolution Procedure); |
| "Sub-contractor(s)" | a sub-contractor of the Contractor (excluding other GCN Service Providers) in relation to the GCN |

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Services;

"Technical Domain Description"

The document of the same name published by the Authority at the Effective Date , subject to amendment by the Authority from time to time, in accordance with clause 13.2;

"Term"

the period commencing on the Effective Date and ending on the effective date of termination of this Deed;

"this Deed"

the clauses of this Deed together with the schedules and annexes to it, and the documents referred to at clause 1.5;

"UK"

England, Scotland, Wales and Northern Ireland (excluding the Isle of Man and the Channel Islands);

"Warning Notice"

has the meaning given in clause 10; and

"Working Day"

any day other than a Saturday, Sunday or a bank or public holiday in England and Wales.

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SCHEDULE 2

GCN SERVICE REQUIREMENTS

1. BACKGROUND

1.1 Except as specified in Schedule 9 (Exceptions and Additions), the Contractor shall comply with the requirements for the provision of GCN Services described in the table below, subject to amendment by the Authority from time to time in accordance with clause 13.2.

1. GCN Service Description
2. Technical Domain Description
3. Service Management Framework
4. Incident and Problem Management
5. Interim Event Management
6. Change and Release Management
7. Management Information Requirements
8. PSN Compliance
9. PSN Document Management and Change Control

1.2 The current version of each of the above documents will be available at <http://www.cabinetoffice.gov.uk/content/public-services-network> or at locations linked to from that site.

SCHEDULE 3

GCN STATEMENT OF FAIRNESS

In this schedule, the following terms have the meanings provided. Except as specified here, defined terms shall have the meaning detailed in Schedule 1 (Definitions):

"Director" means (1) a statutory director or secretary of the Contractor or Contractor Group; or (2) an executive director or other executive officer of the Contractor or Contractor Group, or (3) other senior personnel of the Contractor or Contractor Group who, in each case, require the GCN Services Sales Confidential Information and/or DNSP Services Sales Confidential Information (as appropriate) to carry out the functions of such office or role.

"DNSP Services Sales and Marketing team" means all or any group(s) of people, or all person(s), employed by the Contractor (or the Contractor Group where relevant) whose role includes any or all of the following: to determine what DNSP Services may be of interest to PSNSPs or PSN Service Consumers, to develop business strategies for the sale of DNSP Services, to advertise, promote or market DNSP Services, or to sell DNSP Services.

"Ethical Wall" means an organisational separation between the GCN Services Sales and Marketing team(s), and the DNSP Services Sales and Marketing team(s), including a strong organisational separation of people, systems, and commercial information (and management information where possible); and

"GCN Services Sales and Marketing team" means all or any group(s) of people, or all person(s), employed by the Contractor (or the Contractor Group where relevant) whose role includes any or all of the following: to determine what GCN Services may be of interest to DNSPs, to develop business strategies for the sale of GCN Services, to advertise, promote or market GCN Services, or to sell GCN Services.

1. BACKGROUND

1.1 The objective of this Schedule is to ensure that that the Contractor follows ethical, fair and transparent business practices, and complies with the Law and this Deed when dealing with the Authority, other GCNSPs, Candidate GCNSPs, and DNSPs in the provision of the GCN Services (and where applicable DNSP Services).

2. COMPLIANCE VERIFICATION

2.1 The Contractor shall demonstrate how it meets the requirements of this Schedule as part of Compliance Verification in accordance with Schedule 4 (Compliance).

3. ETHICAL WALLS

3.1 The Contractor shall implement appropriate Ethical Walls within it (and within and between each member of the Contractor Group where relevant), in order to achieve the objective set out in paragraph 1.1 above.

3.2 The Contractor's methods for implementing Ethical Walls pursuant to paragraph 3.1 shall include (without limitation):

3.2.1 the introduction of internal organisational and/or direct management controls and reporting procedures, as required pursuant to paragraph 3.3 and 5.1;

3.2.2 the separation of costs and charges, as required pursuant to paragraph 4.1;

3.2.3 the Contractor's method for the organisational separation of roles and function, as required pursuant to paragraph 5;

3.2.4 the use of information systems, and the protection of confidential and commercially sensitive information within its organisation, as required pursuant to paragraph 5.1;

3.2.5 a method for storing Records, as required pursuant to paragraph 5.3;

3.3 The Contractor shall monitor the suitability and efficacy of the methods it has adopted in relation to Ethical Walls, to comply with its objectives under this schedule and the Law. The Contractor shall update such methods as appropriate and necessary to comply with the principles as set out here throughout the Term.

4. SEPARATION OF CHARGES

4.1 The Contractor shall ensure that all charges for the GCN Services and all charges for the DNSP Services shall be constructed independently from each other. For the avoidance of doubt, but without limitation, this means that there must be no cross-subsidy between the GCN Services and the DNSP Services.

5. CONFIDENTIAL INFORMATION

5.1 The Contractor shall ensure that:

5.1.1 in relation to all Contractor's Confidential Information relating to GCN Services sales, including but not limited to related and relevant correspondence, DNSP requests for information, quotations and subsequent negotiations for its GCN Services which are not in the public domain ("**GCN Services Sales Confidential Information**");

5.1.1.1 it uses the GCN Services Sales Confidential Information solely for the purpose for which it was supplied;

5.1.1.2 the GCN Services Sales Confidential Information is only to be disclosed to the Contractor Personnel who need to know the information, and shall ensure that such Contractor Personnel are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality;

5.1.1.3 the GCN Services Sales Confidential Information shall not be made available to the Contractor's or members of the Contractor Group's DNSP Services Sales and Marketing team;

5.1.2 all Contractor's Confidential Information relating to DNSP Services sales, including but not limited to all related and relevant correspondence, requests for information, quotations and subsequent negotiations for its DNSP Services obtained in relation to the Contractor's DNSP Services which are not in the public domain, ("**DNSP Services Sales Confidential Information**");

5.1.2.1 it uses the DNSP Services Sales Confidential Information solely for the purpose for which it was supplied;

5.1.2.2 the DNSP Services Sales Confidential Information is only to be disclosed to the Contractor Personnel who need to know the information, and shall ensure that such Contractor Personnel are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality;

5.1.2.3 the DNSP Services Sales Confidential Information shall not be made available to the Contractor's or members of the Contractor Group's GCN Services Sales and Marketing teams (including their immediate management reporting structure).

5.2 Paragraph 5.1 above shall not apply to

5.2.1 the passing of information to a Director of the Contractor or the Contractor Group, where the Director requires that information in order to carry out his functions as a Director provided that any Directors receiving such information pursuant to this paragraph shall act in the utmost good faith, and paragraphs 5.1.1.3 and 5.1.2.3 shall continue to apply;

5.2.2 the passing of information between the DNSP Services Sales and Marketing team and the GCN Services Sales and Marketing team which is required in the normal course of the business for the purchase of GCN Services by a DNSP which is part of the Contractor's own Group.

5.3 The Contractor shall retain the information and documentation demonstrating its compliance with this schedule, in accordance with the provisions of Schedule 7 (Records Provision).

5.4 The Contractor agrees that it shall bear its own costs and expenses incurred in respect of compliance with its obligations under this Schedule 3 (GCN Statement of Fairness).

5.5 Subject to paragraph 5.6 below, the Contractor shall, within 15 Working Days of a request by the Authority, which request shall not be made more than once in any 12 month period, in order to demonstrate that the Contractor is complying with this Schedule 3 (GCN Statement of Fairness), provide to the Authority in the case of each of its GCN Service Agreements (without identifying the DNSP) the price, unit price, term, volumes, and other price affecting factors forming part of such GCN Service Agreement provided always that this shall not oblige the Contractor to provide information which relates to the Contractor's or a DNSP's input costs, capital and operating costs, overheads, revenue, margins and profits.

5.6 The Contractor shall include in its standard terms and conditions for its GCN Service Agreement an express agreement by the DNSPs that the Contractor may provide to the Authority the information required under paragraph 5.5 but where,

following commercial negotiations, the Contractor proposes to enter into a GCN Service Agreement which includes a duty of confidentiality or any other provision which will conflict with the Contractor's obligations under paragraph 5.5, then provided the Contractor notifies the Authority of such conflict in advance of execution of that GCN Service Agreement and provided it has used all reasonable endeavours to meet its obligations under paragraph 5.5 the Contractor shall not be required to provide the information detailed in paragraph 5.5 other than pricing.

6. SINGLE GCN SERVICE PROVIDER

- 6.1 The following provisions of this paragraph 6 shall apply where the Contractor is the only Candidate GCN Service Provider or GCN Service Provider providing GCN services.
- 6.2 The Contractor shall publish its GCN Services prices (excluding information as to input costs, capital and operating costs, overheads, revenue, margin and profits), and GCN Services' methodologies including but not limited to the service specifications, options, and processes that describe the GCN Services in use on a website, such that any DNSP can easily access the information regarding the Contractor's prices on application. Such prices and GCN Service methodologies may be further referenced and included on any websites relating to the PSN as reasonably directed by the Authority. Such websites shall be notified to the Contractor from time to time.
- 6.3 The Contractor shall on request from a DNSP (including an entity that has commenced the onboarding process to become a DNSP), provide sufficient information related to the GCN Services to support any procurement bid by the DNSP as is reasonably required to enable the DNSP to separately and transparently detail the Contractor's GCN Services charges (including GCN connection and usage charges) in any such bid.

SCHEDULE 4

GCN Compliance

1. BACKGROUND

- 1.1 The Contractor shall maintain GCN Compliance Certification for its GCN Services at all times during the Term.
- 1.2 Compliance Verification, shall occur:
 - 1.2.1 at set up (where the GCN Services are to be certified for the first time);
 - 1.2.2 periodically (where the GCN Services are recertified); and
 - 1.2.3 on exception (where the Authority requires additional assurance).
- 1.3 The importance of compliance in the PSN environment, what it means, the processes for awarding and rescinding compliance and accreditation and the role of the SIROs and Infrastructure SIRO, are detailed in the PSN Compliance document. The Contractor shall comply with the requirements for Compliance Verification of GCN Services as described in PSN Compliance and this Schedule 4 (GCN Compliance).

2. COMPLIANCE VERIFICATION

- 2.1 The Authority is the only organisation that issues and rescinds GCN Compliance Certificates.
- 2.2 Where reasonably satisfied that the Contractor's GCN Services have met the terms of this Deed and are in accordance with the Law, the Authority shall:
 - 2.2.1 confirm to the Contractor in writing when the Contractor has successfully completed Compliance Verification of the GCN Services; and
 - 2.2.2 issue a GCN Compliance Certificate.
- 2.3 Subject to paragraphs 4.2 (Periodic Compliance Verification) and 5 (Compliance Verification on Exception), the Contractor is responsible for scheduling and managing the Compliance Verification of the GCN Services.

- 2.4 The Contractor is responsible for ensuring that the GCN test results are independently verified using either Authority resources, or third party independent assurance and testing bodies as appointed by the Contractor and approved by the Authority (such approval not to be unreasonably withheld), as a condition for achieving GCN Compliance. The Contractor shall ensure that any independent third party conducting the tests acknowledges in writing that the tests results are to be provided to the Authority and that the Authority shall be relying on those results. The Contractor shall make the test results obtained during Compliance Verification available to the Authority promptly on request.
- 2.5 The Authority shall not duplicate any Compliance Verification conducted by the Contractor, except where the Authority has reasonable and just cause to require further Compliance Verification in accordance with these provisions. The Authority therefore may, but shall not be obliged to, conduct further Compliance Verification in accordance with the provisions of this Schedule 4 (GCN Compliance).
- 2.6 The Contractor shall meet all costs of Compliance Verification of the GCN Services, including but not limited to the costs of any third party independent assurance and testing bodies, or Authority resources where used as described in paragraph 2.4.
- 2.7 Where the Authority elects to conduct further Compliance Verification in accordance with paragraph 2.5, the Authority may either use Authority resources or appoint third parties independent of the Contractor and not a GCNSP or Candidate GCNSP to undertake Compliance Verification on its behalf. The Contractor shall allow reasonable access to its site and personnel upon receiving not less than 20 Working Days' prior written notice (and shall use reasonable endeavours to allow such access within 10 Working Days thereof).
- 2.8 Where the Authority elects to conduct further Compliance Verification in accordance with paragraph 2.5, the Contractor shall indemnify the Authority for all of the Authority's (and its subcontractors and agents) reasonable costs and expenses incurred in the course of Compliance Verification. The Contractor shall make payment within 30 calendar days of receipt of an undisputed invoice by the Authority. Where the Contractor disputes any element of an invoice, it shall pay the undisputed element of the invoice in accordance with the provisions of this

clause, and the disputed element of the invoice shall be referred by the Contractor to the Dispute Resolution Procedure.

3. SET UP COMPLIANCE VERIFICATION

- 3.1 As at the Effective Date, the Contractor has been assessed as a Fit and Proper Person.
- 3.2 The Contractor hereby acknowledges that its status as a Fit and Proper Person may vary throughout the Term, dependant on all information received by the Authority.
- 3.3 From the point that the Contractor signs the Deed it may refer to itself as a 'Candidate GCNSP', and may market its GCN Services to potential customers, provide quotations to potential customers, take orders from potential customers and agree contracts with other GCN Service Providers at any time. The Contractor shall not be permitted to provide live GCN Services to DNSPs until it has been awarded a GCN Compliance Certificate.

Audit of Fairness Provisions

- 3.4 The Contractor is required to conduct its business at all times in a manner that is in accordance with the Law and which meets the requirements and objectives set out in Schedule 3 (GCN Statement of Fairness).
- 3.5 The Contractor is responsible for ensuring that its compliance with the Law and Schedule 3 (GCN Statement of Fairness) is independently verified prior to its commencing delivery of GCN Services using either Authority resources, or third party independent audit bodies as appointed by the Contractor and approved by the Authority, as a condition for achieving GCN Compliance and the provisions of Clauses 11.3 to 11.9 of the Deed shall apply to such audit.

GCN Compliance Verification - Test Scripts and Plans

- 3.6 The Contractor shall prepare a test plan and test scripts for connectivity to each other GCN Service Provider, for the Compliance Verification of the GCN Services. The test scripts and test plan shall be developed in consultation with the Authority, and shall be detailed enough to show compliance with all aspects of the Compliance Criteria.

- 3.7 The Contractor shall submit the test scripts and the test plan to the Authority for review not less than 20 Working Days prior to the planned commencement of the conduct of Compliance Verification. The Authority may, but shall not be obliged to review such test scripts and test plan prior to the conduct of Compliance Verification.
- 3.8 If the Authority chooses to review the test scripts and test plans submitted in accordance with paragraph 3.7 then it shall do so within 10 Working Days providing written comments to the Contractor. The Contractor shall submit revised test plans and test scripts to the Authority for its review within 10 Working Days of receipt of such comments.
- 3.9 Where the Authority provides written comments to the Contractor in accordance with paragraph 3.8, the Contractor shall not commence Compliance Verification until the test plans and test scripts have been approved by the Authority.
- 3.10 Notwithstanding any submission by the Contractor in accordance with paragraph 3.7, at any time during or after the completion of Compliance Verification, the Authority may require a review of the test scripts and test plans created to test the GCN Services, and the associated results.
- 3.11 The Contractor and the Authority shall meet to review the test plans and test scripts within 10 Working Days of any written request by the Authority.

GCN Service Compliance Verification – Testing, Testers and Test Observers.

- 3.12 The Contractor shall commence Compliance Verification of the GCN Services within 120 Working Days of the Effective Date, or such other date as is agreed by the parties in writing.
- 3.13 The Contractor shall conduct the Compliance Verification and the Authority (or its agent) may observe all such tests. The Contractor shall give the Authority not less than 10 Working Days advance written notice, and shall invite the Authority (or its agent) to attend and observe Compliance Verification. The Authority (or its agent) shall be entitled to recommend:
- 3.13.1 any additional testing where it deems this reasonably necessary;
- 3.13.2 revisions to the draft documents submitted as part of Compliance Verification.

- 3.14 The Contractor shall provide on completion of Compliance Verification a written report to the Authority detailing the tests performed and the results. Where the Authority is reasonably satisfied that the Contractor has demonstrated that the Contractor's GCN Services have met the terms of the Compliance Criteria and are in accordance with the Law, it shall grant a GCN Compliance Certificate to the Contractor within 10 Working Days of receipt of the written report under this paragraph.
- 3.15 Where the Authority is not reasonably satisfied that the Contractor has demonstrated that the GCN Services have met the terms of the Compliance Criteria and are in accordance with the Law, it shall specify its reasons in writing within 10 Working Days of receipt of the written report required under paragraph 3.14, and the Contractor may resubmit the GCN Services for Compliance Verification. If the Authority does not notify the Contractor within the 10 Working Day period under paragraph 3.14 or this paragraph 3.15, the GCN Compliance Certificate shall be deemed granted by the Authority.
- 3.16 In accordance with clause 5.3, the Contractor shall be required to successfully complete Compliance Verification within 12 months of the parties' agreement of the Deed. Where the Contractor has been unreasonably delayed by the actions of the Authority, or the organisation appointed by the Authority in accordance with paragraph 2.7, the Contractor shall be granted additional time to complete Compliance Verification, such additional time to be equivalent to time of the delay caused.

4. PERIODIC COMPLIANCE VERIFICATION

- 4.1 Paragraphs 2 and 3.1 to 3.14 (inclusive) shall also apply to Periodic Compliance Verification.
- 4.2 The Authority shall be entitled to conduct Periodic Compliance Verification not more than once every 12 months from the date that the Contractor's current GCN Compliance Certificate was issued by the Authority.
- 4.3 The Authority shall publish a Compliance Review Schedule annually. This schedule will list the PSN Service Providers, (including GCNSPs) that are required to undergo and complete a Compliance Verification review within the upcoming 12 month period. Where the Contractor has been unreasonably delayed by the

actions of the Authority, or the organisation appointed by the Authority in accordance with paragraph 2.5, the Contractor shall be granted additional time to complete Periodic Compliance Verification, such additional time to be equivalent to time of the delay caused.

- 4.4 The Authority's decision to include any particular GCN Service Provider will depend on a number of factors, including but not limited to the length of time since the last periodic review, and the degree of information assurance risk associated with the Contractor, GCN Service Providers, or the GCN services.
- 4.5 The Contractor agrees that the Authority's decision on which GCN Service Providers are listed in the Compliance Review Schedule, (and whether the Contractor is so listed,) and are therefore required to undergo Compliance Verification is final. The Contractor shall submit the GCN Services to Periodic Compliance Verification in accordance with the published Compliance Review Schedule.
- 4.6 Where the Authority is not reasonably satisfied that the Contractor has demonstrated that the GCN Services have met the Compliance Criteria and are in accordance with the Law, or where the Contractor fails to complete Compliance Verification in accordance with paragraph 4.2, it shall specify its reasons in writing within 10 Working Days, and may in its sole discretion terminate the GCN Compliance Certificate of the Contractor. If the Authority does not notify the Contractor within the 10 Working Day period set out in paragraph 3.14, the Compliance Verification shall be deemed granted by the Authority.

5. COMPLIANCE VERIFICATION ON EXCEPTION

- 5.1 Paragraphs 2 and 3.1 to 3.14 (inclusive) shall also apply to Compliance Verification on Exception.
- 5.2 The Authority may require Compliance Verification on Exception in accordance with paragraph 5.6 below at any time by serving written notice on the Contractor.
- 5.3 Compliance Verification on Exception may be limited in scope to an element of the Contractor's provision of the GCN Services. The scope of Compliance Verification on Exception shall be detailed in the Authority's notice.

- 5.4 Compliance Verification on Exception shall be completed within the timescales reasonably specified by the Authority.
- 5.5 Where paragraph 2.7 above applies, the Contractor hereby gives its irrevocable consent to the organisation(s) appointed by the Authority conducting Compliance Verification on Exception, provided that they are not a GCN Service Provider.
- 5.6 Compliance Verification on Exception shall apply where required by the Authority in accordance with any of the following events:
- 5.6.1 due to a request by the Infrastructure SIRO in relation to fit for consumption accreditation;
 - 5.6.2 where the Authority has reasonable concerns regarding the Contractor's compliance with the Compliance Criteria or the provisions of Schedule 3 (GCN Statement of Fairness);
 - 5.6.3 where the Authority has made changes pursuant to clause 6.9 (Critical National Infrastructure);
 - 5.6.4 following the Authority issuing a Warning Notice pursuant to clause 10 (Warning Notices and Increased Monitoring);
 - 5.6.5 where the Authority has made a change to the documents referred to in Schedule 2 (GCN Service Requirements) in accordance with Clause 13.2;
 - 5.6.6 where the circumstances giving rise to the right to terminate in clause 18.4 (Authority Termination for Cause) apply.
- 5.7 Where the Authority is not reasonably satisfied after the conduct of Compliance Verification on Exception that the Contractor has demonstrated that the GCN Services have met the Compliance Criteria and that the Contractor is compliant with Schedule 3 (GCN Statement of Fairness) and the Law, it shall specify its reasons in writing within 10 Working Days as set out in paragraph 3.15, and may in its sole discretion terminate the GCN Compliance Certificate of the Contractor. If the Authority does not notify the Contractor within the 10 Working Day period set out in paragraph 3.18, the Compliance Verification shall be deemed granted by the Authority.

SCHEDULE 5

FINANCIAL DISTRESS

1. BACKGROUND

1.1 This schedule provides for the assessment of the financial standing of the Contractor and the establishment of trigger events relating to changes in such financial standing which if breached will have the specified consequences.

2. CREDIT RATING AND DUTY TO NOTIFY

2.1 The Contractor warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date the long term credit ratings issued for the Contractor by the Rating Agencies are equal to or higher than the Credit Rating Threshold set out in the Appendix (“the Credit Rating Threshold”).

2.2 The Contractor shall endeavour to maintain or exceed the Credit Rating Threshold as set out in this schedule.

2.3 The Contractor shall promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if it ceases to have credit ratings issued by the Rating Agencies listed in the Appendix (and in any event within 10 Working Days of ceasing to have any such credit ratings), whereupon the Contractor shall ensure that its auditors provide to the Authority, at the end of each Contract Year and for the last Contract Year in which a credit rating was available, a written report detailing the financial standing of the Contractor together with any further information relating to the Contractor's financial standing reasonably requested by the Authority.

2.4 The Contractor shall:

2.4.1 regularly monitor the Contractor's credit ratings with the Rating Agencies;
and

2.4.2 promptly notify (or shall procure that its auditors promptly notify) the Authority in writing following the occurrence of a Financial Distress Event, or any fact, circumstance or matter which could cause a Financial Distress Event, and in any event, ensure that such notification is made

within 10 Working Days of the date on which the Contractor first becomes aware of the Financial Distress Event, or the fact, circumstance or matter which could cause a Financial Distress Event.

- 2.5 Where the Contractor's credit ratings provided by the Rating Agencies listed in the Appendix differ, for the purposes of the Financial Distress Events, the relevant credit rating shall be determined by reference to the lower credit rating.

3. FINANCIAL DISTRESS EVENTS

- 3.1 A financial distress event consists of one or more of:
- 3.1.1 the Contractor's credit rating dropping below the Credit Rating Threshold set out in the Appendix;
 - 3.1.2 the Contractor issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;
 - 3.1.3 there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Contractor;
 - 3.1.4 the Contractor committing a material breach of covenants to its lenders;
 - 3.1.5 a Sub-contractor notifying the Authority that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
 - 3.1.6 any of the following:
 - 3.1.6.1 commencement of any litigation against the Contractor with respect to financial indebtedness or obligation under a service contract; or
 - 3.1.6.2 non payment by the Contractor of any financial indebtedness; or
 - 3.1.6.3 any financial indebtedness of the Contractor becoming due as a result of an event of default; or
 - 3.1.6.4 the cancellation or suspension of any financial indebtedness in respect of the Contractor;

which will directly and materially impact on the continued performance and delivery of the GCN Services in accordance with this Deed,

(each a "Financial Distress Event" and collectively "Financial Distress Events").

4. AUTHORITY REMEDIES

- 4.1 The Contractor shall at the request of the Authority, meet with the Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the GCN Services in accordance with this Deed.
- 4.2 Where the Authority reasonably believes (taking into account the discussions and any representations made under paragraph 4.1) that the Financial Distress Event(s) could have a material adverse impact on the continued performance and delivery of the GCN Services in accordance with this Deed, the Contractor shall submit to the Authority for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event(s) or such other period as the Authority may permit and notify to the Contractor in writing).
- 4.3 The Authority shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If the Authority does not approve the draft Financial Distress Service Continuity Plan, it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Authority within 5 Working Days of the rejection of the first draft. Subject to paragraph 4.4, this process shall be repeated until the Financial Distress Service Continuity Plan is approved by the Authority.
- 4.4 If the Authority reasonably considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete, or is insufficient to ensure the continued performance and delivery of the GCN Services, then it may either:

- 4.4.1 agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan; or
 - 4.4.2 escalate any issues with the draft Financial Distress Service Continuity Plan in accordance with Schedule 6 (Dispute Resolution Procedure).
- 4.5 Following approval of the Financial Distress Service Continuity Plan by the Authority, the Contractor shall:
- 4.5.1 on a regular basis (which shall not be less than monthly), review the agreed Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance and delivery of the GCN Services in accordance with this Deed;
 - 4.5.2 where the agreed Financial Distress Service Continuity Plan is not adequate or up to date in accordance with paragraph 4.5.1, submit an updated Financial Distress Service Continuity Plan to the Authority for its approval, and the provisions of paragraphs 4.3 and 4.4 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
 - 4.5.3 comply with the agreed Financial Distress Service Continuity Plan (including any agreed updated Financial Distress Service Continuity Plan).
- 4.6 If the Contractor is subject to one or more Financial Distress Events, the Authority may require the Contractor to update the Authority as to the Contractor's financial standing, whereupon the Contractor shall procure such information as the Authority may reasonably require and ensure that its chief financial officer provides an update on a monthly basis.

5. TERMINATION RIGHTS

- 5.1 The Authority shall be entitled to terminate this Deed under paragraph 18.4.3 (Termination for Cause by the Authority) if:
- 5.1.1 the Contractor fails to notify the Authority of a Financial Distress Event in accordance with paragraph 2.4;
 - 5.1.2 the parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance

with paragraph 4 (Authority Remedies), and such issue is not resolved pursuant to Commercial Negotiations under paragraphs 3 or Mediation under paragraph 4 of Schedule 6 (Dispute Resolution Procedure); or

- 5.1.3 the Contractor fails to comply with the terms of the agreed Financial Distress Service Continuity Plan (or any updated agreed Financial Distress Service Continuity Plan).

6. CONSEQUENCES OF AN IMPROVEMENT IN FINANCIAL DISTRESS

- 6.1 If following a Financial Distress Event under 3.1.1, the Rating Agencies review and report subsequently that the credit ratings have recovered, and are not below the relevant Credit Rating Threshold set out in the Appendix, the Contractor shall be relieved automatically of its obligations under paragraph 4 (Authority Remedies) and the agreed Financial Distress Service Continuity Plan (or any updated agreed Financial Distress Service Continuity Plan).
- 6.2 Subject to paragraph 6.1 above, where the Contractor reasonably believes that the relevant Financial Distress Event(s) (or the circumstance or matter which has caused or otherwise led to it or them) no longer exist, it shall notify the Authority and (subject to any other occurrence of Financial Distress Events), the parties may agree that the Contractor shall be relieved of its obligations under paragraph 4 (Authority Remedies) and the agreed Financial Distress Service Continuity Plan (or any updated agreed Financial Distress Service Continuity Plan).

APPENDIX

CREDIT RATING THRESHOLD

The Credit Rating Threshold will be if the Credit Rating is assigned by Standard & Poors or if the Credit Rating is assigned by Moody's or the equivalent rating issued by another ratings agency.

SCHEDULE 6

DISPUTE RESOLUTION PROCEDURE

1. GENERAL

- 1.1 Unless otherwise agreed in writing, the parties shall continue to comply with their respective obligations under this Deed regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.
- 1.2 The Contractor shall procure that any Sub-contractor involved in GCN Services which are the subject of a Dispute shall, at the request of either party, provide any reasonable assistance required in order to resolve the relevant Dispute, including the provision of any information, data or documentation and the attendance at any meetings or hearings.
- 1.3 The Authority shall not be responsible for any costs or expenses incurred by the Contractor or any Sub-contractor participating in the resolution of any Dispute.
- 1.4 The time periods set out in the Dispute Resolution Timetable shall apply to all Disputes unless the parties agree that an alternative timetable should apply in respect of a specific Dispute.

2. DISPUTE RESOLUTION PROCESS - ESCALATION

- 2.1 Where either party wishes to raise a Dispute with the other, it shall serve a Notice of Dispute on the other.
- 2.2 The Notice of Dispute shall:
- 2.2.1 set out the material particulars of the Dispute;
 - 2.2.2 set out the reasons why the party raising the Dispute believes that the Dispute has arisen;
 - 2.2.3 elect (subject to the provisions of paragraph 2.3) whether the Dispute should be dealt with under the Standard Dispute Timetable or the Expedited Dispute Timetable; and

- 2.2.4 if the party serving the Notice of Dispute believes that the Dispute should be dealt with under the Expedited Dispute Timetable, explain the reason why.
- 2.3 The parties may only agree to use the Expedited Dispute Timetable in exceptional circumstances where the use of the Standard Dispute Timetable would be unreasonable, including (by way of example) where one party would be materially disadvantaged by a delay in resolving the Dispute. If the parties are unable to reach agreement on the use of the Expedited Dispute Timetable within five Working Days of the issue of the Notice of Dispute then the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.
- 2.4 Subject to paragraph 3.4, the parties shall seek to resolve Disputes firstly by commercial negotiation (as prescribed in paragraph 3 below), then by mediation (as prescribed in paragraph 4 below) and lastly by recourse to arbitration (as prescribed in paragraph 5) or litigation (in accordance with clause 30 (Governing Law and Jurisdiction)).
- 2.5 The time periods set out in the Dispute Resolution Timetable shall apply to all Disputes unless the parties agree that an alternative timetable should apply in respect of a specific Dispute.

3. COMMERCIAL NEGOTIATIONS

- 3.1 The parties shall use all reasonable endeavours to settle any Dispute between them in good faith and in accordance with the procedure set out in this paragraph 3.
- 3.2 In the first instance, the Authority and the Contractor will make reasonable endeavours to resolve all Disputes as soon as possible, at the lowest level in the project structure in which they can best be managed. Where either party considers that a Dispute cannot be resolved within acceptable timescales the dissatisfied party may escalate the Dispute to the next level in the table below in accordance with the following escalation process ("**Escalation Process**").

| | Authority | Contractor |
|----------------|--------------------------------------|-------------------|
| Level 1 | Head of Operations, PSN Authority | |
| Level 2 | Delivery Director, PSN | |

| | | |
|----------------|---------------------------------|--|
| Level 3 | Senior Responsible Officer, PSN | |
|----------------|---------------------------------|--|

Note: Escalation Process of Level 1 of both parties, then Level 2 of both parties, then Level 3 of both parties.

- 3.3 The speed of escalation and resolution of Disputes during this commercial negotiations stage will be judged by reference to the seriousness and operational impact of the issue on the Contractor, the Authority and Customers, and should be agreed between the parties (but in default of agreement at the discretion of the Authority). The timescale for resolving Disputes by commercial negotiations shall be as set out in the applicable section of the Dispute Resolution Timetable.
- 3.4 Subject to paragraph 3.5, if the parties have not settled the Dispute in accordance with the Escalation Process and the time period provided in paragraph 3.3, then the parties shall refer the matter to mediation in accordance with paragraph 4 of this schedule.
- 3.5 If either party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiations, will not result in an appropriate solution or that the parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiations in accordance with this paragraph 3, that party shall serve a written notice to that effect and the parties shall proceed to mediation in accordance with paragraph 4.

4. MEDIATION

- 4.1 In the event that a Dispute between the parties cannot be resolved by commercial negotiation in accordance with paragraph 3, the parties shall attempt to resolve it in accordance with CEDR's model mediation procedure.
- 4.2 If the parties are unable to agree on the joint appointment of a Mediator within the timescale specified in the applicable section of the Dispute Resolution Timetable, they shall make a joint application to CEDR to nominate the Mediator.
- 4.3 The Mediator, after consultation with the parties where appropriate, will:

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- 4.3.1 attend any meetings with either or both of the parties preceding the mediation, if requested or if the Mediator decides this is appropriate and the parties agree;
 - 4.3.2 read before the mediation each Case Summary and all the documents sent to him;
 - 4.3.3 chair, and determine the procedure for the mediation;
 - 4.3.4 assist the parties in drawing up any written settlement agreement; and
 - 4.3.5 abide by the terms of CEDR's model mediation procedure and CEDR's code of conduct for mediators.
- 4.4 The Mediator (and any member of the Mediator's firm or company) will not act for either of the parties individually in connection with the Dispute in any capacity during the Term. The parties accept that in relation to the Dispute neither the Mediator nor CEDR is an agent of, or acting in any capacity for, any of the parties. Furthermore, the parties and the Mediator accept that the Mediator (unless an employee of CEDR) is acting as an independent contractor and not as an agent or employee of CEDR.

CEDR

- 4.5 CEDR, in conjunction with the Mediator, will make the necessary arrangements for the mediation including, as necessary:
- 4.5.1 nominating, and obtaining the agreement of the parties to, the Mediator;
 - 4.5.2 organising a suitable venue and dates;
 - 4.5.3 organising exchange of the Case Summaries and documents;
 - 4.5.4 meeting with either or both of the parties (and the Mediator if appointed), either together or separately, to discuss any matters or concerns relating to the mediation; and
 - 4.5.5 general administration in relation to the mediation.

- 4.6 If there is any issue about the conduct of the mediation upon which the parties cannot agree within a reasonable time, CEDR will, at the request of any party, decide the issue for the parties, having consulted with them.
- 4.7 The parties agree to notify the Mediator that they wish to observe the relevant timescales agreed in the Dispute Resolution Timetable.

Participants

- 4.8 Each party will state the names of:
- 4.8.1 the person(s) who will be the lead negotiator(s) for that party, who must have full authority to settle the Dispute; and
 - 4.8.2 any other person(s) (such as professional advisers, colleagues or sub-contractors) who will also be present at, and/or participating in, the mediation on that party's behalf.

Exchange of Information

- 4.9 Each party will send to CEDR at least 2 weeks before the mediation, or such other date as may be agreed between the parties and CEDR, sufficient copies of:
- 4.9.1 its Case Summary; and
 - 4.9.2 all the documents to which the Case Summary refers and any others to which it may want to refer in the mediation.
- 4.10 In addition, each party may send to the Mediator (through CEDR) and/or bring to the mediation further documentation which it wishes to disclose in confidence to the Mediator but not to any other party, clearly stating in writing that such documentation is confidential to the Mediator and CEDR.
- 4.11 The Mediator will be responsible for sending a copy of each party's Case Summary and supporting documents (pursuant to paragraph 4.9.1) to the other simultaneously.
- 4.12 The Parties should try to agree:
- 4.12.1 the maximum number of pages of each Case Summary; and

4.12.2 a joint set of supporting documents or the maximum length of each set of supporting documents.

The Mediation

- 4.13 The mediation will take place at the time and place arranged by CEDR. The parties agree to request that CEDR arrange the time and place for the mediation within the timescale specified in the applicable section of the Dispute Resolution Timetable. If the mediation cannot be arranged within the relevant timescale the parties shall treat the delay as though they had agreed an extension to the Dispute Resolution Timetable in accordance with paragraph 1.4.
- 4.14 The Mediator will chair, and determine the procedure at, the mediation.
- 4.15 No recording or transcript of the mediation will be made.
- 4.16 If the parties are unable to reach a settlement in the negotiations at the mediation, and only if all the parties so request and the Mediator agrees, the Mediator will produce for the parties a non-binding recommendation on terms of settlement. This will not attempt to anticipate what a court might order but will set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 4.17 The parties agree to notify CEDR that the maximum duration for the mediation meeting shall be as set out in the applicable section of the Dispute Resolution Timetable.

Settlement Agreement

- 4.18 Any settlement reached in the mediation will not be legally binding until it has been reduced to writing and signed by, or on behalf of, the parties (in accordance with the Change Control Procedure where appropriate). In any event any settlement agreement must be finalised within the timescales specified in the Dispute Resolution Timetable unless the parties agree an extension to the Dispute Resolution Timetable in accordance with paragraph 1.4. The Mediator will assist the parties in recording the outcome of the mediation.

Termination

- 4.19 The mediation will terminate when:

- 4.19.1 a party withdraws from the mediation;
- 4.19.2 a written settlement agreement is concluded;
- 4.19.3 the Mediator decides that continuing the mediation is unlikely to result in a settlement; or
- 4.19.4 the Mediator decides he should retire for any of the reasons in CEDR's code of conduct.

Stay of Proceedings

- 4.20 Any litigation or arbitration in relation to the Dispute may be commenced or continued notwithstanding the mediation unless the parties agree otherwise or a court so orders.

Confidentiality

- 4.21 Every person involved in the mediation will keep confidential and not use for any collateral or ulterior purpose:
 - 4.21.1 information that the mediation is to take place or has taken place, other than to inform a court dealing with any litigation relating to the Dispute of that information; and
 - 4.21.2 all information (whether given orally, in writing or otherwise) arising out of, or in connection with, the mediation including the fact of any settlement and its terms.
- 4.22 All information (whether oral or documentary and on any media) arising out of, or in connection with, the mediation will be without prejudice, privileged and not admissible as evidence or disclosable in any current or subsequent litigation or other proceedings whatsoever. This does not apply to any information which would in any event have been admissible or disclosable in any such proceedings.
- 4.23 Paragraphs 4.21 and 4.22 shall not apply insofar as any such information is necessary to implement and enforce any settlement agreement arising out of the mediation.
- 4.24 None of the parties to the mediation will call the Mediator or CEDR (or any employee, consultant, officer or representative of CEDR) as a witness, consultant,

arbitrator or expert in any litigation or other proceedings whatsoever. The Mediator and CEDR will not voluntarily act in any such capacity without the written agreement of all the parties.

Mediators fees and expenses

4.25 CEDR's fees (which include the Mediator's fees) and the other expenses of the mediation will be borne equally by the parties. Payment of these fees and expenses will be made to CEDR in accordance with its fee schedule and terms and conditions of business.

4.26 Each party will bear its own costs and expenses of its participation in the mediation.

Exclusion of Liability

4.27 Neither the Mediator nor CEDR shall be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the mediation, unless the act or omission is shown to have been in bad faith .

5. ARBITRATION

5.1 Subject to paragraph 7, the parties may at any time before court proceedings are commenced agree that the Dispute should be referred to arbitration in accordance with the provisions of paragraph 5.4.

5.2 Before either party may commence any court proceedings it shall serve written notice on the other party of its intention and the receiving party shall have 15 Working Days from receipt of the other party's notice in which to reply requesting the Dispute to be referred to arbitration in accordance with the provisions in paragraph 5.4 to which the other party may agree.

5.3 The provisions of paragraphs 5.1 and 5.2 shall not apply where the Contractor is required to participate in any collective arbitration procedures between the Authority, the Contractor and any other GCN Service Providers in accordance with paragraph 7. For the avoidance of doubt, the Contractor shall be required to participate in any such proceedings following notification of the same from the Authority.

- 5.4 If a Dispute is referred to arbitration the parties shall comply with the following provisions:
- 5.4.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the London Court of International Arbitration ("**LCIA**") procedural rules shall be applied and are deemed to be incorporated into this Agreement (save that in the event of any conflict between those rules and this Agreement, this Agreement shall prevail);
 - 5.4.2 the decision of the arbitrator shall be binding on the parties (in the absence of any material failure by the arbitrator to comply with the LCIA procedural rules);
 - 5.4.3 the tribunal shall consist of a sole arbitrator to be agreed by the parties and in the event that the parties fail to agree the appointment of the arbitrator within 10 Working Days or, if the person appointed is unable or unwilling to act, as appointed by the LCIA; and
 - 5.4.4 the arbitration proceedings shall take place in London.

6. URGENT RELIEF

- 6.1 Notwithstanding the provisions of paragraphs 2, 3, 4, and 5, the Authority may at any time, where it considers it reasonable and proportionate (and any such assessment shall include but not be limited to considerations of the risk of impact on the Authority and Customer services), refrain from taking action, or take any action permitted under this Deed, including but not limited to:
- 6.1.1 issuing a Warning Notice in accordance with clause 10 (Warning Notice and Increased Monitoring) of this Deed; and/or
 - 6.1.2 suspending the Contractor's access to the GCN in accordance with clause 6.5; and
 - 6.1.3 suspending the GCN Compliance Certificate in accordance with clause 5.
- 6.2 Notwithstanding the provisions of paragraphs 2, 3, 4, 5, and 6.1, the Authority may at any time:

6.2.1 issue a complaint to the appropriate Regulatory Bodies where it reasonably considers that there has been, or there is likely to be, a breach of Law by the Contractor; and/or

6.2.2 apply to the courts for injunctive relief.

7. COLLABORATION

7.1 Where the Authority has a dispute with any other GCN Service Provider(s) relating to the same or similar subject matter of a Dispute, the Authority may at its discretion, require that all such disputes are dealt with collectively between the Authority, the Contractor and the other GCN Service Provider(s) (as relevant). Any such collective procedures shall be based on the mediation, arbitration and litigation procedures detailed in this schedule, as required by the Authority.

7.2 In the event that a collective dispute occurs in relation to paragraph 7.1, the operation of any procedures detailed in this schedule relating to any Dispute between the Authority and the Contractor only shall be suspended at the Authority's discretion pending the resolution of the collective dispute.

APPENDIX**Dispute Resolution Timetable**

Disputes will be escalated in accordance with the following timetable:

| Stage | Standard Dispute Timetable | Expedited Dispute Timetable |
|--|-----------------------------------|------------------------------------|
| Time permitted for resolution of Dispute by commercial negotiations pursuant to paragraphs 2.1 to 3.3 of this schedule from the date of the Notice of Dispute to reference to mediation in accordance with paragraphs 3.3 or 3.4 | 20 Working Days | 10 Working Days |
| Time permitted in paragraph 4.1 to agree the appointment of the Mediator | 20 Working Days | 10 Working Days |
| Period of time in which Mediator may convene the mediation meeting from the date of appointment in accordance with paragraph 4.13 | 30 Working Days | 20 Working Days |
| Maximum duration of mediation meeting in accordance with paragraph 4.17 | 5 Working Days | 2 Working Days |
| Period of time in which the mediation settlement is to be recorded in writing and signed by the parties in accordance with paragraph 4.18 | 20 Working Days | 10 Working Days |

SCHEDULE 7

RECORDS PROVISION

1. PART I : GENERAL REQUIREMENTS

- 1.1 The Contractor shall (and shall procure that any Sub-contractor shall) at its own expense retain and maintain all the Records securely and in accordance with the requirements of Good Industry Practice.
- 1.2 Subject to paragraph 1.5, each of the Records is to be uniquely identifiable and stored in the United Kingdom in a form that is reasonably accessible. The Contractor shall at its own cost make such Records available to the Authority at any time upon the Authority giving reasonable notice.
- 1.3 Notwithstanding any termination or expiry of the Deed, the Records shall be retained and maintained by the Contractor at its cost and expense for such periods as are specified below and in accordance with applicable Laws and regulatory requirements.
- 1.4 Where the Contractor wishes to dispose of any Records maintained as provided in this schedule in respect of which the required period for their retention has expired, then the Contractor shall notify the Authority and if, within 30 Working Days of such notice, the Authority elects to receive certain of those Records, then the Contractor shall deliver up such Records to the Authority (or to such third party as the Authority may nominate) in the manner and at the location as the Authority shall reasonably specify, and the costs of retaining those Records in safe storage shall thereafter be borne by the Authority. The Authority's retention of Records shall be in accordance with all applicable Laws and regulatory requirements. If the Authority elects not to receive any Records pursuant to this paragraph 1.4, the Contractor shall destroy such Records in such manner as is reasonably appropriate to ensure the confidentiality of the information contained in such Records.
- 1.5 Should the Authority require the delivery up to it of any of the Records (in accordance with the provisions set out above) in a format or formats which are different to the standard format or formats in which such records are kept by the Contractor at that time, the Contractor shall provide reasonable assistance to the Authority in any necessary conversion or adaptation of those records. Formats used by and/or required by the Authority shall be those formats in common usage within

the public sector at the time of any requirement for the Contractor to deliver up any Records.

- 1.6 The Authority may request Records at any time by giving the Contractor written notice. The Contractor shall provide the Records detailed under section 2 (Reports) under Part II Records below to the Authority in not more than 5 Working Days of receipt of written notice from the Authority. Except as specified here, all Records shall be supplied to the Authority in not more than 10 Working Days (or where otherwise reasonably agreed by the Authority within 20 Working Days) of receipt of written notice from the Authority.
- 1.7 Unless otherwise required by the Authority in writing, the Authority shall receive the Records unredacted from the Contractor.
- 1.8 The Authority may consult with the Contractor to inform its decision regarding any redactions, but the Authority shall have discretion, in accordance with clause 15.3 (Freedom of Information). The Contractor shall reasonably assist and cooperate with the Authority in this respect.

2. PART II - RECORDS

All Records must be kept, logged and made available on any request by the Authority.

| | TYPE | RETAIN SUPERSEDED RECORDS? | MINIMUM PERIOD OF TIME FOR RETENTION |
|-----------|---|-----------------------------------|---|
| 1. | Agreements | | |
| | A current accumulated summary index list of DNSP customers, and related agreements including: commencement date, expiry / termination date. | No | during the Term plus 6 years |
| | All GCN Service Agreements, including all schedules, agreed contract amendments and agreed side letters. | Yes | during the Term plus 6 years |
| | Copies of written agreements between the Contractor and its Sub-contractors for GCN Services. Copies of written agreements with other GCN Service Providers, Copies of written agreements with DNSPs. | Yes | during the Term plus 6 years |
| | Copies of the Deed and details of any associated waivers or variations. | Yes | during the Term plus 6 years |

UNCLASSIFIED

| | TYPE | RETAIN SUPERSEDED RECORDS? | MINIMUM PERIOD OF TIME FOR RETENTION |
|-----------|--|-----------------------------------|---|
| | Letters of intent held and granted by the Contractor, and associated correspondence, relating to GCN Services. | Yes | during the Term plus 6 years |
| 2. | Reports | | |
| | Information relating to the Contractor's standard GCN Service Description. | Yes | during the Term plus 6 years |
| | All Minimum Service Level performance reports, and associated supporting information. | Yes | during the Term plus 6 years |
| | Copies of reports and associated supporting information produced by the Contractor which are contained in communications with any DNSP relating to its management of the GCN Services. | Yes | during the Term plus 6 years |
| | Details of implementation, Compliance Verification, test and remedial plans relating to GCN Services. | Yes | during the Term plus 6 years |
| | Details of service incidents, events and changes relating to GCN Services. | Yes | during the Term plus 6 years |
| | Security operating procedures, security plans, relating to GCN Services. | Yes | during the Term plus 6 years |
| | Details of all notifications, guidance and agreements with the Regulatory Bodies relevant to the GCN Services. | Yes | during the Term plus 6 years |
| 3. | Finance | | |
| | Insurance records | Yes | during the Term plus 6 years |
| | All supporting accounts information relating to the GCN Services (and DNSP Services where relevant) as is reasonably necessary for an assessment of conformance to the provisions set out in Schedule 3 (GCN Statement of Fairness). | Yes | during the Term plus 6 years |
| | Pricing information relating to the Contractor's GCN Services (and DNSP Services where relevant) price lists (but excluding information as to input costs, capital and operating costs, overheads, revenue, margins and profits). | Yes | during the Term plus 6 years |
| | Information relating to the Contractor's approach to pricing GCN Services (and DNSP Services where relevant) as is reasonably necessary to allow an investigation in relation to conformance with the Law and Schedule 3 (GCN Statement of Fairness) but otherwise excluding information as to input costs, capital and operating costs, overheads, revenue, | Yes | during the Term plus 6 years |

UNCLASSIFIED

| | TYPE | RETAIN SUPERSEDED RECORDS? | MINIMUM PERIOD OF TIME FOR RETENTION |
|-----------|---|-----------------------------------|---|
| | margins and profits. | | |
| 4. | GCN/DNSP Connections | | |
| | Records relevant to all GCN connections to current and future DNSPs. | Yes | during the Term plus 6 years |
| | Other directly related records in relation to all GCN Services connections (and DNSP Services connections where relevant). | Yes | during the Term plus 6 years |
| 5. | Correspondence | | |
| | All correspondence and documentation relating to the GCN Services (and DNSP Services where relevant) between the Contractor and all or any of the PSNA, other GCNSPs or Candidate GCNSPs, and DNSPs or Candidate DNSPs. | Yes | during the Term plus 6 years |
| | All customer correspondence, requests for information, associated charges information, meeting notes and any other related Records in relation to DNSPs (and prospective DNSPs). All correspondence and documentation relating to the transition of services and confirmation of transition of services to or from the Contractor, all in relation to the GCN. | Yes | during the Term plus 6 years |
| 6. | Meeting notes | | |
| | All minutes and/or issued notes of meetings between the Contractor and relevant GCNSP or DNSP (as the case may be) relating to the provision of the GCN Services (and DNSP Services where relevant). | Yes | during the Term plus 6 years |
| | All minutes and/or issued notes of meetings between the Contractor and current and future DNSPs relating to all GCN connections provided or to be provided by the Contractor. | Yes | during the Term plus 6 years |
| | All minutes and/or issued notes of meetings with other GCNSPs or Candidate GCNSPs and DNSPs or Candidate DNSPs. | Yes | during the Term plus 6 years |

SCHEDULE 8

COMMERCIALLY SENSITIVE INFORMATION

1. INTRODUCTION

- 1.1 Without prejudice to the Authority's general obligation of confidentiality, the parties acknowledge that the Authority may have to disclose Information in or relating to this Deed following a Request for Information pursuant to clause 15 (Freedom of Information).
- 1.2 In this schedule the parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive, and the disclosure of which would be contrary to the public interest.
- 1.3 Where possible the parties have sought to identify where any relevant Information will cease to fall into the category of Information to which this schedule applies.
- 1.4 Without prejudice to the Authority's obligation to disclose Information in accordance with the Freedom of Information Act 2000, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the Freedom of Information Act 2000 to the Information listed in the Appendix.

Appendix

Commercially Sensitive Information

| No. | Date From | Item(s) | Duration of Confidentiality |
|------------|------------------|----------------|------------------------------------|
| | | | |
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SCHEDULE 9**EXCEPTIONS AND ADDITIONS****1. INTRODUCTION**

- 1.1 Notwithstanding its other obligations under this Deed the Contractor shall comply with the additional and / or revised requirements and obligations set out in this schedule.
- 1.2 These provisions shall take precedence over any contrary provisions in this Deed. Where the reference is to a referenced document specifying a version number, such provision shall only modify interpretation of that version of the referenced document, and shall not apply to subsequent versions of the referenced document. Where the parties wish the provision to apply to all subsequent versions of the referenced document, the parties shall specify '**[document] [version reference] [date](and all subsequent versions of this document)**'.
- 1.3 Reference to any clause, paragraph, or referenced document in this Deed, shall be a reference to such clause paragraph or referenced document as amended by the following provisions.

| No | Clause / Schedule Reference | Exceptions / Additions / Amendments |
|-----------|------------------------------------|--|
| 1. | | |