

LIST OF CHANGES

Mid-Tier Contract v1.1 from previous version (Mid-Tier Contract v1.0)

Key thematic updates:

- Bullet points in the Core Terms have been replaced by sub-clauses, and some clauses have been reordered/moved for ease.
- A liability cap of a [suggested range of £10-20m] per contract year has been added to the supplier indemnity for any losses incurred if the supplier breaches the data protection clauses or any data protection legislation.
- The provisions around IPR have been amended and largely moved to a new IPR Schedule. The changes include provisions around the supplier granting licences to the Authority for use of any existing supplier IPR that are needed, adding wording providing for the Authority to be able to publish New IPR under open licence, and providing what happens to IPR licences at the end of the contract.
- Within the new IPR Schedule, alternative drafting options for ownership and licensing of New IPR have been added.
- Optional Collaborative Working Principles have been added.
- References to outdated EU legislation have been updated/deleted, including GDPR provisions.
- Updates have been made to the optional Financial Difficulties Schedule, including amending the definitions of Financial Distress Events (as well as adding some new Financial Distress Events), and allowing Authorities to use different financial indicator tests or credit scores, along with existing credit ratings.
- An optional Corporate Resolution Planning Schedule has been added, for use with any Gold Tier contracts.
- Amendments have been made to refer to Social Value requirements and KPIs, including in the Services Description Schedule, Performance Levels Schedule, and Sustainability Schedule.
- The conflicts of interest provision has been amended.
- Step-in rights provisions have been added.
- New provisions on subcontracting (including appointment, termination, responsibility, mandatory terms, and approval) have been added.
- The Exit Management Schedule has been updated, including providing a list of Termination Assistance Services and requirements for a Virtual Library.
- The Insurance Schedule has been updated.
- The Corporate Social Responsibility Schedule has been renamed the Sustainability Schedule, split into 3 separate Parts, and amended.
- Updates have been made to the Award Form to allow the Authority the option at the procurement stage to amend termination provisions around termination for convenience, extension, 'Buyer Cause', and requiring financial reporting.

- The ability for Authorities to enter into direct agreements with third parties when they have more favourable terms than the Supplier has been removed.
- The optional Benchmarking Schedule has been slightly amended.
- The optional Clustering Schedule has been renamed the Sustainability Schedule, and amended.
- An optional Agile Development Schedule has been added.
- The optional MoD Terms Schedule has been replaced with a Buyer-Specific Terms Schedule.
- There have been amendments to clauses in the Mid-Tier to better align with the MSC, including provisions around allowable assumptions, due diligence, set-off, audits, additional supplier warranties, additional Authority termination rights, FOIA requests, force majeure, the rectification plan process, variations, prompt payment, and key subcontractors.

General guidance on the terms may be obtained by contacting the Model Services Contract team at: modelservicescontract@cabinetoffice.gov.uk. Detailed and specific guidance should be obtained from your legal advisors.

Note: corrections of typos, renumbered cross-references, and minor errors are generally not listed. For a full picture of the changes, you may like to run a 'red-line' against the previous version.

CLAUSE, DEFINITION, OR PARAGRAPH	CHANGE
CORE TERMS – MID-TIER CONTRACT	
Throughout	<p>Bullet points have been replaced by sub-clauses.</p> <p>Some clauses have been reordered/moved for ease, e.g. Clauses 4.7-4.9 have been moved to new Clause 8.4.</p> <p>The word “and” has been added after the penultimate item in lists of items.</p> <p>References to “takes all reasonable steps” or “take all reasonable steps” have been changed to “uses all reasonable endeavours” or “use all reasonable endeavours”.</p> <p>Where a reference within a Clause is the same Clause, the word “this” has been inserted, e.g. “13.1, in <i>this</i> Clause 13”.</p>
Clause 2.1.1 (How the contract works)	<p>Clause 2.1.1 has been amended as follows:</p> <p style="padding-left: 40px;">2.1.1 make changes to the Award Form;</p>
Clause 2.4 (How the contract works)	<p>A new Clause 2.4 has been added as follows:</p> <p style="padding-left: 40px;">2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:</p> <p style="padding-left: 80px;">2.4.1 the Buyer’s requirements for the Deliverables;</p> <p style="padding-left: 80px;">2.4.2 the Buyer’s operating processes and working methods; and</p> <p style="padding-left: 80px;">2.4.3 the ownership and fitness for purpose of the Buyer Assets,</p> <p style="padding-left: 40px;">and it has it has advised the Buyer in writing of:</p> <p style="padding-left: 80px;">2.4.4 each aspect, if any, of the Buyer’s requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;</p> <p style="padding-left: 80px;">2.4.5 the actions needed to remedy each such unsuitable aspect;</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 80px;">2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,</p>

	<p>and such actions, timetable and costs are fully reflected in this Contract.</p> <p>See also the new definition of Allowable Assumptions and the amendments to Schedule 3, below.</p>
<p>Clause 3.1.2 (What needs to be delivered)</p>	<p>Clause 3.1.2 has been amended as follows:</p> <p>3.1.2 In the event that a level of warranty is not specified in the Award Form, the Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects. The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.</p>
<p>Clause 3.1.3 (What needs to be delivered)</p>	<p>A new Clause 3.1.3 has been added as follows:</p> <p>Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:</p> <ul style="list-style-type: none"> (a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later"; (b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties; (c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties; (d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and (e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle. <p>See also the new definitions of Buyer Third Party and Collaborative Working Principles and the amendments to the Award Form, below.</p>

<p>Clause 4.5 (Pricing and payments)</p>	<p>Clause 4.5 has been amended as follows:</p> <p>The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.</p>
<p>Clause 6 (Record keeping and reporting)</p>	<p>Clause 6 has been amended as follows:</p> <p>6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.</p> <p>6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract during the Contract Period and for 7 years after the End Dates and in accordance with the UK GDPR, or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.</p> <p>6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:</p> <p style="padding-left: 40px;">6.3.1 on or before the Start Date;</p> <p style="padding-left: 40px;">6.3.2 at the end of each Contract Year; and</p> <p style="padding-left: 40px;">6.3.3 within 6 Months of the end of the Contract Period,</p> <p>and the Supplier must meet with the Buyer if requested within 10 Working Days of the Buyer receiving a Financial Report.</p> <p>6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:</p> <p style="padding-left: 40px;">6.4.1 Supplier’s currently incurred or forecast future Costs; and</p> <p style="padding-left: 40px;">6.4.2 forecast Charges for the remainder of the Contract,</p> <p>then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.</p>

6.5 The Supplier must allow any Auditor access to their premises ~~to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit~~ and the Buyer will use reasonable endeavours to ensure that any Auditor:

6.5.1 complies with the Supplier's operating procedures; and

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

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

6.6.1 all information within the permitted scope of the Audit;

6.6.2 any Sites, equipment and the Supplier's ICT system used in the performance of the Contract; and

6.6.3 the Supplier Staff.

6.7 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.

6.8 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:

6.8.1 correcting any identified Default;

6.8.2 rectifying any error identified in a Financial Report; and

6.8.3 repaying any Charges that the Buyer has overpaid.

6.9 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

6.9.1 tell the Buyer and give reasons;

6.9.2 propose corrective action; and

6.9.3 provide a deadline for completing the corrective action.

6.10 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

See also the new definitions of **Financial Transparency Objectives** and **Financial Report** and the amendments to the Award Form, below.

New Clauses 8, 8.1, and 8.2 have been added as follows:

8 Supply chain

8.1 Appointing Subcontractors

8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

- a) manage Subcontractors in accordance with Good Industry Practice;
- b) comply with its obligations under this Contract; and
- c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

8.2 Mandatory provisions in Sub-Contracts

8.2.1 The Supplier will ensure that all Sub-Contracts in the Supplier's supply chain entered into after the Effective Date wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:

- a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
- c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.

8.2.2 The Supplier will take reasonable endeavours to ensure that all Sub-Contracts in the Supplier's supply chain entered into before the Effective Date but made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:

- a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and

New Clause 8
(Supply Chain)

	<p>c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.</p>
<p>Previous Clause 10.7 (When Sub-Contracts can be ended), Now Clause 8.3 (When Sub-Contracts can be ended)</p>	<p>Clause 10.7 has been moved to new Clause 8.3 (When Sub-Contracts can be ended) and amended as follows:</p> <p>8.3.1 At the Buyer’s request, the Supplier must terminate any Sub-Contracts in any of the following events:</p> <ul style="list-style-type: none"> a) there is a Change of Control of a Subcontractor which isn’t pre-approved by the Buyer in writing; b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4; c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer; d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.
<p>Previous Clauses 4.7-4.9 (Pricing and payments), Now Clause 8.4 (Competitive terms)</p>	<p>Clauses 4.7-4.9 have been moved to new Clause 8.4 (Competitive terms) and amended as follows:</p> <p>8.4 Competitive Terms</p> <p>8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may either:</p> <ul style="list-style-type: none"> a) require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items; or b) enter into a direct agreement with the Subcontractor or third party for the relevant item.

	<p>8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.</p> <p>8.4.3 The Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:</p> <p style="padding-left: 40px;">a) the relevant item being made available to the Supplier if required to provide the Deliverables; and</p> <p style="padding-left: 40px;">b) any reduction in the Charges excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges.</p>
<p>New clause 8 (Supply Chain)</p>	<p>A new Clause 8.5 has been added as follows:</p> <p>8.5 Ongoing responsibility of the Supplier</p> <p>8.5.1 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.</p>
<p>Previous Clause 8.1 (Rights and protection), Now Clause 9.1 (Rights and protection)</p>	<p>Clause 8.1 has been renumbered Clause 9.1 and amended as follows:</p> <p>9.1 The Supplier warrants and represents that:</p> <p style="padding-left: 40px;">9.1.1 it has full capacity and authority to enter into and to perform the Contract;</p> <p style="padding-left: 40px;">9.1.2 the Contract is executed by its authorised representative;</p> <p style="padding-left: 40px;">9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;</p> <p style="padding-left: 40px;">9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform the Contract;</p> <p style="padding-left: 40px;">9.1.5 it maintains all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and for the Buyer to receive the Deliverables;</p>

	<p>9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract;</p> <p>9.1.76 it is not impacted by an Insolvency Event or a Financial Distress Event; and</p> <p>9.1.7 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Start Date or been subject to an investigation relating to a Prohibited Act.</p> <p>See also the new definition of Financial Distress Event, below.</p>
<p>Previous Clause 9 (Intellectual Property Rights (IPRs)), Now Clause 10 (Intellectual Property Rights (IPRs))</p>	<p>Clause 9 has been renumbered Clause 10 and amended as follows. It has largely been moved to new Schedule 36, and amended:</p> <p>9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:</p> <ul style="list-style-type: none"> • receive and use the Deliverables; and • make use of the deliverables provided by a Replacement Supplier. <p>9.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.</p> <p>9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.</p> <p>9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9.1.5 or otherwise agreed in writing.</p> <p>9.5 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.</p> <p>9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:</p> <ul style="list-style-type: none"> • obtain for the Buyer the rights in Clause 10.1 and 10.2 without infringing any third party IPR; and • replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables. <p>10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.</p>

	<p>10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.</p> <p>10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:</p> <p style="padding-left: 40px;">10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or</p> <p style="padding-left: 40px;">10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.</p> <p>10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.2.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect.</p> <p>See also the new definitions of e.g. Buyer Existing IPR, Crown IPR, End User, New IPR Item, Open Licence, Open Licence Publication Material, Special IPR Terms, Supplier Existing IPR, Supplier Existing IPR Licence, and Third Party IPR Licence, the amendments to Schedule 28 and new Schedule 36, below.</p>
<p>Previous Clauses 10.4.2-10.4.4 (When the Buyer can end the Contract), Now Clause 11 (Rectifying issues)</p>	<p>Clauses 10.4.2-10.4.4 have been moved to new Clause 11 and amended as follows:</p> <p>11 Rectifying Issues</p> <p>11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer can, without limiting its rights, may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.</p> <p>11.2 When the Buyer receives a requested Rectification Plan it can either:</p> <p style="padding-left: 40px;">11.2.1 reject the Rectification Plan or revised Rectification Plan, giving reasons; or</p> <p style="padding-left: 40px;">11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties.</p> <p>...</p>

	<p>See also the new definition of Notifiable Default, and the amendments to Schedule 25, below.</p>
<p>New Clause 12 (Escalating issues)</p>	<p>A new Clause 12 has been added as follows:</p> <p>12. Escalating issues</p> <p>12.1 If the Supplier fails to:</p> <p style="padding-left: 40px;">12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; or</p> <p style="padding-left: 40px;">12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.</p> <p>or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than 5 Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.</p> <p>12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than 5 Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.</p> <p>12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clause 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.</p> <p>See also the new definitions of Notifiable Default and Escalation Meeting below.</p>
<p>New clause 13 (Step-in rights)</p>	<p>A new Clause 13 has been added as follows:</p> <p>13 Step-in rights</p> <p>13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:</p> <p style="padding-left: 40px;">13.1.1 whether it will be taking action itself or with the assistance of a third party;</p>

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

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

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

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

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

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

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

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

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

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

See also the new definitions of e.g. **Step-In Trigger Event, Step-In Process, Required Action, Step-Out Plan**, below.

<p>Previous Clause 10 (Ending the Contract), Now Clause 14 (Ending the Contract)</p>	<p>Clauses 10.1-10.5 have been renumbered as Clauses 14.1-14.5 and amended as follows:</p> <p>14.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.</p> <p>14.2 The Buyer can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires as described in the Award Form.</p> <p>14.3 Ending the contract without a reason</p> <p>The Buyer has the right to terminate the Contract at any time without reason or (unless the Award Form states something different) liability by giving the Supplier not less than 90 days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clauses 14.5.1b) to 14.5.1h) applies.</p> <p>14.4 When the Buyer can end the Contract</p> <p>14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate the Contract by issuing a Termination Notice to the Supplier:</p>
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- a) there's a Supplier Insolvency Event ~~or if the Supplier fails to notify the Buyer of a Financial Distress Event;~~
- b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance;
- c) there's a **Notifiable** Default that is not corrected in line with an accepted Rectification Plan;
- d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request;
- e) there's any material Default of the Contract;
- f) a Default that occurs and then continues to occur on one or more occasions within 6 Months following the Buyer serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract;
- g) there's any material Default of any Joint Controller Agreement relating to the Contract;
- h) there's a Default of Clauses 2.7, 10, 12, 18, 19, 31, 36 ~~or~~ Schedule 19 (Cyber Essentials) (where applicable) **or** Schedule 36 (Intellectual Property Rights) relating to the Contract;
- i) the performance of the Supplier causes a Critical Service Level Failure to occur;
- j) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- k) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- ~~there's a Variation to the Contract which cannot be agreed using Clause 28 (Changing the contract) or resolved using Clause 39 (Resolving disputes);~~
- l) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;
- ~~the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;~~
- m) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or

o) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.

14.4.2 The Buyer also has the right to terminate the Contract in accordance with Clauses 9.5 and 24.3, Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) and Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable).

14.4.3 If any of the events in 73 (1) (a) ~~to (e)~~ or (b) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clauses 14.5.1.b) to 14.5.1h) applies.

14.5 What happens if the contract ends

14.5.1 Where the Buyer terminates the Contract under Clauses 14.4.1 and 9.5, Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) or Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) all of the following apply:

a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

b) The Buyer's payment obligations under the terminated Contract stop immediately.

c) Accumulated rights of the Parties are not affected.

d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.

e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.

f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

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

h) The following Clauses survive the termination of the Contract: 3.2.10, 6, 7.2, 10, 15, 18, 19, 20, 21, 22, 39, 40, Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

See also the new definitions of **Critical Service Level Failure**, and **Notifiable Default** and the amendments to the Award Form, Schedule 24, and new Schedules 36 and 37 below.

<p>Previous Clause 20 (Circumstances beyond your control), Now Clause 14 (Ending the Contract)</p>	<p>Clause 20.3 has been moved and renumbered as clause 14.5.2 and amended as follows:</p> <p>14.5.2 Where a If either Party terminates the Contract under Clause 24.3:</p> <ul style="list-style-type: none"> a) each party must cover its own Losses; and b) Clauses 14.5.1b) to 15.5.1h) applies.
<p>Previous Clause 10.6 (When the Supplier can end the contract), Now Clause 14.6 (When the Supplier can end the contract)</p>	<p>Clause 10.6 has been renumbered as Clause 14.6 and amended as follows:</p> <p>...</p> <p>14.6.2 The Supplier also has the right to terminate the Contract in accordance with Clauses 24.3 and 27.5.</p> <p>14.6.3 Where the Buyer terminates the Contract under Clause 14.3 or if the Supplier terminates the Contract under Clause 14.6.1 or 27.5:</p> <ul style="list-style-type: none"> a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier; b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and c) Clauses 14.5.1b) to 14.5.1h) apply.

<p>Previous Clause 10.8 (Partially ending and suspending the contract), Now Clause 14.7 (Partially ending and suspending the contract)</p>	<p>Clause 10.8 has been renumbered as Clause 14.7 and amended as follows:</p> <p>...</p> <p>14.7.2 The Buyer can only partially terminate or suspend the Contract if the remaining parts of that the Contract can still be used to effectively deliver the intended purpose.</p> <p>14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7.3 using the Variation Procedure, but the Supplier may not either:</p> <ul style="list-style-type: none"> a) reject the Variation; or b) increase the Charges, except where the right to partial termination is under Clause 14.3. <p>14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.</p>
<p>Previous Clause 11 (How much you can be held responsible for), Now Clause 15 (How much you can be held responsible for)</p>	<p>Clause 11 has been renumbered as Clause 15, and amended as follows:</p> <p>15.1 Each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.</p> <p>15.2 NoNeither Party is liable to the other for:</p> <ul style="list-style-type: none"> 15.2.1 any indirect Losses; and 15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect). <p>....</p> <p>15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 9.3, 10.2.1, 16.3, or 18.8.5 or Schedule 7 (Staff Transfer) of the Contract.</p> <p>15.5 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.</p> <p>...</p> <p>See also the new definition of Data Protection Liability Cap and the amendments to the Award Form, below.</p>

<p>Previous Clause 12 (Obeying the law), Now Clause 16 (Obeying the law)</p>	<p>Clauses 12-13 have been renumbered Clauses 16-17, and Clauses 16.1 (previously 12.1) and 16.2 (new) have been amended as follows:</p> <p>16.1 The Supplier must use reasonable endeavours to shall comply with the provisions of Schedule 26 (Corporate Social ResponsibilitySustainability).</p> <p>16.2 The Supplier shall comply with the provisions of:</p> <p>16.2.1 the Official Secrets Acts 1911 to 1989; and</p> <p>16.2.2 Section 182 of the Finance Act 1989.</p> <p>See also the amendments to Schedule 26, below.</p>
<p>Previous Clause 14 (Data protection), Now Clause 18 (Data protection)</p>	<p>Clause 14 has been renumbered as Clause 18, and amended as follows:</p> <p>....</p> <p>18.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and immediately suggest remedial action.</p> <p>...</p> <p>18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is entirely at fault.</p> <p>...</p> <p>18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.</p> <p>See also the amendments to Schedule 20, below.</p>

<p>Previous Clause 15 (What you must keep confidential), Now Clause 19 (What you must keep confidential)</p>	<p>Clause 15 has been renumbered as Clause 19, and amended as follows:</p> <p>19.2.1 where disclosure is required by applicable Law, a regulatory body or by a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;</p> <p>...</p> <p>19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;</p> <p>...</p> <p>19.4.5 Under Clauses 4.74.6 and 20.</p> <p>...</p>
<p>Previous Clause 16 (When you can share information), Now Clause 20 (When you can share information)</p>	<p>Clause 16 has been renumbered as Clause 20, and amended as follows:</p> <p>...</p> <p>20.2 Within the required timescales In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:</p> <p>...</p> <p>20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable in its absolute discretion.</p>

<p>Previous Clause 17 (Invalid parts of the contract), Now Clause 21 (Invalid parts of the contract)</p>	<p>Clause 17 has been renumbered as Clause 21, and Clauses 21.2 and 21.3 (new) have been inserted as follows:</p> <p>21.2 If any removal under Clause 21.1 is so fundamental that it prevents the purpose of the Contract from being achieved or it materially changes the balance of risk and rewards between the Parties, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to rectify these issues and to amend the Contract accordingly so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Contract and, to the extent that it is reasonably possible, achieves the Parties' original commercial intention.</p> <p>21.3 If the Parties cannot agree on what amendments are required within 5 Working Days, the matter will be dealt with via commercial negotiation as set out in Clause 39.2 and, if there is no resolution within 30 Working Days of the matter being referred, the Contract will terminate automatically and immediately with costs lying where they fall.</p>
<p>Previous Clause 18 (No other terms apply), Now Clause 22 (No other terms apply)</p>	<p>Clauses 18-19 have been renumbered as Clauses 22-23, and Clause 22 has been amended as follows:</p> <p>The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and, or agreements whether written or oral. No other provisions apply.</p>
<p>Previous Clause 20 (Circumstances beyond your control), Now Clause 24 (Circumstances beyond your control)</p>	<p>Clauses 20-22 have been renumbered as Clauses 24-26, and Clause 24 has been amended as follows:</p> <p>...</p> <p>24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.</p> <p>24.3 Either party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.</p> <p>Clause 20.3 has been moved and renumbered as clause 14.5.2 (see above).</p>

<p>Previous Clause 23 (Transferring responsibilities), Now Clause 27 (Transferring responsibilities)</p>	<p>Clause 23 has been renumbered as Clause 27, and amended as follows:</p> <p>27.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of it without the Buyer’s written consent.</p> <p>27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot sub-contract the Contract or any part of it without the Buyer’s prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:</p> <p>27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;</p> <p>27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or</p> <p>27.2.3 the proposed Subcontractor employs unfit persons</p> <p>....</p> <p>27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:</p> <p>27.7.1 their name;</p> <p>27.7.2 the scope of their appointment;</p> <p>27.7.3 the duration of their appointment; and</p> <p>27.7.4 a copy of the Sub-Contract.</p>
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<p>Previous Clause 24 (Changing the contract), Now Clause 28 (Changing the contract)</p>	<p>Clause 24 has been renumbered as Clause 28, and amended as follows:</p> <p>28.1 Either Party can request a Variation to the Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.</p> <p>...</p> <p>28.3 If the Variation to the Contract cannot be agreed or resolved by the Parties, the Buyer can either:</p> <p>28.3.1 agree that the Contract continues without the Variation; and</p> <p>28.3.2 terminate the affected Contract, unless the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them;</p> <p>28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).</p> <p>...</p> <p>28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:</p> <p>24.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or</p> <p>24.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.</p> <p>...</p>
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<p>Previous Clause 25 (How to communicate about the contract), Now Clause 29 (How to communicate about the contract)</p>	<p>Clauses 25-26 have been renumbered as Clauses 29-30, and Clause 29 has been amended as follows:</p> <p style="padding-left: 40px;">29.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent at 9am on the first Working Day after sending unless an error message is received.</p> <p style="padding-left: 40px;">...</p>
<p>Previous Clause 27 (Preventing fraud, bribery and corruption), Now Clause 31 (Preventing fraud, bribery and corruption)</p>	<p>Clauses 27-31 have been renumbered as Clause 31-35, and Clause 31 has been amended as follows:</p> <p style="padding-left: 40px;">31.1 The Supplier must not during any the Contract Period:</p> <p style="padding-left: 80px;">31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or</p> <p style="padding-left: 80px;">31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.</p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">31.3 The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 31.1 or 31.2 or has any reason to think that it, or any of the Supplier Staff, has have either:</p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">31.5 If the Supplier is in Default under Clause 31.1, the Buyer may:</p> <p style="padding-left: 80px;">31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and</p> <p style="padding-left: 80px;">31.5.2 immediately terminate this agreement.</p>

<p>Previous Clause 32 (Conflict of interest), Now Clause 36 (Conflict of interest)</p>	<p>Clauses 32-33 have been renumbered as Clauses 36-37, and Clause 36 has been amended as follows:</p> <p>36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, or potential or perceived Conflict of Interest.</p> <p>36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.</p> <p>36.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest. The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest.</p>
<p>New Clause 38 (Further assurances)</p>	<p>A new Clause 38 has been added as follows:</p> <p>38 Further Assurances</p> <p>Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.</p>

<p>Previous Clause 34 (Resolving disputes), Now Clause 39 (Resolving disputes)</p>	<p>Clause 34 has been renumbered as Clause 39, and has been amended as follows:</p> <p>39.1 If there is a Dispute, the senior representatives of the Parties who have authority to resolve the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.</p> <p>If the Dispute is not resolved at that meeting either Party can send a notice to the other explaining why it thinks the Dispute has arisen and within 28 days the Parties will seek to resolve the Dispute by commercial negotiation, led by senior representatives who have authority to settle it.</p> <p>39.2 If the Dispute is not resolved at that meeting, the Parties If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.</p> <p>...</p>
<p>Previous Clause 35 (Which law applies), Now Clause 40 (Which law applies)</p>	<p>Clause 35 has been renumbered Clause 40 and amended as follows:</p> <p>This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.</p>

<h2>AWARD FORM – MID-TIER CONTRACT</h2>	
<p>Throughout</p>	<p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>Within-Schedule references have been renumbered, where necessary.</p>
<p>Para 3 (Contract)</p>	<p>Para 3 has been amended as follows:</p> <p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p>

	<p>This opportunity is advertised in the Contract Notice in the Official Journal of the European Union Find A Tender, reference [Insert reference number] (OJEU-FTS Contract Notice).</p>
<p>New Para 6 (Buyer Cause)</p>	<p>A new Para 6 has been added as follows:</p> <p>6. Buyer Cause</p> <p>Any breach of:</p> <ul style="list-style-type: none"> • [Insert specific list of Buyer responsibilities/obligations] <p>And the Buyer shall have no obligation to perform any obligations placed on it in Schedule 2 (Specification) or Schedule 4 (Tender) unless they are specifically identified above.</p> <p>[or insert] the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier.</p> <p>See Clause 5 for further details.</p> <p>See also the amended definition of Buyer Cause, below.</p>
<p>New Para 7 (Collaborative working principles)</p>	<p>A new Para 7 has been added as follows:</p> <p>7. Collaborative working principles</p> <p>The Collaborative Working Principles [do not] apply to this Contract. [Guidance: delete reference to "[do not]" as relevant]</p> <p>See Clause 3.1.3 and the Mid-Tier Guidance document for further details.</p> <p>See also the new definition of Collaborative Working Principles, below, and the amendment to Clause 3.1.3 of the Core Terms, above.</p>
<p>New Para 8 (Financial Transparency Objectives)</p>	<p>A new Para 8 has been added as follows:</p> <p>8. Financial Transparency Objectives</p> <p>The Financial Transparency Objectives [do not] apply to this Contract. [Guidance: delete reference to "[do not]" as relevant]</p> <p>See Clause 6.3 for further details.</p> <p>[Guidance: if the Financial Transparency Objectives are selected, this puts obligations on the Supplier to provide Financial Reports, in effect - Open Book Contract Management. Buyers should consider whether this is appropriate and proportionate for their particular procurement, bearing in mind PPN 05/16 - Open book contract management]</p> <p>See also the new definitions of Financial Transparency Objectives and Financial Report, below and the amendment to Clause 6.3 of the Core Terms, above.</p>

<p>Previous Para 6 (Start Date), Now Para 9 (Start Date)</p>	<p>Para 6 has been renumbered as Para 9 and the following guidance has been inserted:</p> <p>[Guidance: insert a condition precedent if needed e.g. provision of a signed Guarantee by a backstop date]</p>
<p>Previous Para 7 (End Date), Now Para 10 (Expiry Date)</p>	<p>Para 7 has been renumbered as Para 10 and renamed Expiry Date.</p>
<p>Previous Para 8 (Extension Period), Now Para 11 (Extension Period)</p>	<p>Para 8 has been renumbered as Para 11 and amended as follows:</p> <p>11. Extension Period</p> <p>[Insert Not applicable or insert detail about extensions of this Contract]</p> <p>[Further period up to [Insert Day Month Year or describe duration]</p> <p>[Extension exercised where the Buyer gives the Supplier no less than [3 Months'] written notice before the Contract expires] [Guidance: insert notice and adjust period as appropriate. This can be used to adjust the notice period in Clause 14.2 but the notice period should only be shorter than 3 months in exceptional circumstances. A shorter notice period may be permitted where a Buyer will be unable to provide 3 months' written notice and/or where Suppliers can continue performing the Contract for the extension period without incurring costs as a result of a shorter notice period. Buyers should engage with the market before proposing a shorter notice period]</p>
<p>New Para 12 (Ending the Contract without a reason)</p>	<p>A new Para 12 has been added as follows:</p> <p>12. Ending the Contract without a reason</p> <p>The Buyer shall be able to terminate the Contract in accordance with Clause 14.3.</p> <p>[Guidance: The following can be used to adjust the notice period in Clause 14.3 but it should only be changed if the Buyer has a legitimate requirement to end the Contract sooner or if the Supplier requires more notice so that it can avoid costs and the Buyer is able to provide more notice] [Provided that the amount of notice that the Buyer shall give to terminate in Clause 14.3 shall be [Insert].]</p> <p>[Guidance: only insert the following if the notice period in Clause 14.3 is shortened or if generally accepted market conditions are such that the Supplier cannot reasonably avoid costs arising from an early termination of the Contract without a reason] Upon any termination in accordance with Clause 14.3, the Buyer shall pay to the Supplier the costs that the Supplier has incurred directly as a result of the early termination of the Contract which are unavoidable, reasonable and not capable of recovery as long as the Supplier provides a fully itemised and costed schedule with evidence. The maximum value of this payment is limited to the total costs which would have been paid to the Supplier as part of the Charges if the Contract had not been terminated.]</p>

	See also the amendment to Clause 14.3 of the Core Terms, above.
Previous Para 9 (Incorporated Terms), Now Para 13 (Incorporated Terms)	<p>Para 9 has been renumbered as Para 13 and amended as follows:</p> <p>13. Incorporated Terms</p> <p>(together these documents form the "the Contract")</p> <p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <p><i>[Guidance: delete the highlighted Schedule 31 (Buyer Specific Terms) if it is not needed for this procurement. Remove the highlighting before publication if Schedule 31 (Buyer Specific Terms) is to be used. Check each Schedule to make sure all placeholders are populated correctly for this procurement.]</i></p> <ol style="list-style-type: none"> 1. This Award Form 2. Any Special Terms (see Section 14 (Special Terms) in this Award Form) 3. Schedule 31 (Buyer Specific Terms) 4. Core Terms (version 1.0) 5. Schedule 36 (Intellectual Property Rights) <i>[If you are using Schedule 28 (ICT Services) please also see that Schedule for IPR drafting options]</i> 6. Schedule 1 (Definitions) 7. Schedule 6 (Transparency Reports) 8. Schedule 20 (Processing Data) 9. The following Schedules (in equal order of precedence): <p><i>[Guidance: delete any highlighted Schedule that is not needed for this procurement. Add any additional Schedule that is needed. Remove any highlighting remaining before publication. Check each Schedule to make sure all placeholders are populated correctly for this procurement]</i></p> <ol style="list-style-type: none"> a. Schedule 2 (Specification) b. Schedule 3 (Charges) c. Schedule 5 (Commercially Sensitive Information) Schedule 6 (Transparency Reports) d. Schedule 7 (Staff Transfer) e. Schedule 8 (Implementation Plan & Testing) f. Schedule 9 (Installation Works) g. Schedule 10 (Service Levels)

	<ul style="list-style-type: none"> h. Schedule 11 (Continuous Improvement) i. Schedule 12 (Benchmarking) j. Schedule 13 (Contract Management) k. Schedule 14 (Business Continuity and Disaster Recovery) l. Schedule 15 (Minimum Standards of Reliability) m. Schedule 16 (Security) n. Schedule 17 (Service Recipients) o. Schedule 18 (Supply Chain Visibility) p. Schedule 19 (Cyber Essentials Scheme) Schedule 20 (Processing Data) q. Schedule 21 (Variation Form) r. Schedule 22 (Insurance Requirements) s. Schedule 23 (Guarantee) t. Schedule 24 (Financial Difficulties) u. Schedule 25 (Rectification Plan) v. Schedule 26 (Corporate Social Responsibility)(Sustainability) w. Schedule 27 (Key Subcontractors) x. Schedule 28 (ICT Services) y. Schedule 28A (Agile Development Additional Terms) z. Schedule 29 (Key Supplier Staff) aa. Schedule 30 (Exit Management) bb. Schedule 32 (Background Checks) cc. Schedule 33 (Scottish Law) dd. Schedule 34 (Northern Ireland Law) ee. Schedule 35 (Lease Terms) ff. Schedule 37 (Corporate Resolution Planning Information) Schedule 26 (Corporate Social Responsibility) <p>10. Schedule 4 (Tender), unless as long as any part of the Tender that offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that aspect of the Tender will take precedence over the documents above.</p>
<p>Previous Para 10 (Special Terms), Now Para 14 (Special Terms)</p>	<p>Para 10 has been renumbered as Para 14 and the following guidance has been inserted into 'Special Term 1':</p> <p>[Guidance Note: See non-exhaustive list of suggestions below:</p> <ol style="list-style-type: none"> 1. Assets, Equipment and Maintenance: Where the Supplier relies on use of specific Buyer or Supplier assets/equipment then consider provisions

	<p><i>relating to ownership, transfer, use and maintenance (including valuation, payment and tax treatment).</i></p> <p>2. Appointment of a Remedial Advisor: <i>Depending on criticality of the Goods and/or Services, consider ability to appoint a remedial advisor to advise the Supplier and support continuity of supply. This could be an earlier remedy prior to step in or termination.</i></p> <p>3. Appointment of an Expert (Dispute Resolution): <i>Consider if expert determination would be a useful stage in the dispute resolution procedure e.g. for technical such as IT/financial issues. If so then consider if their decision is binding on the parties and processes relating to appointment and decision making.]</i></p>
New Para 15 (Sustainability)	<p>A new Para 15 has been added as follows, and Para 11 is renumbered Para 16:</p> <p>Sustainability The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with Schedule 26 (Sustainability).</p> <p>See also the amendment to Clause 16.1 of the Core Terms and Schedule 26, below</p>
Previous Para 13 (Social Value Commitment), Now Para 17 (Social Value Commitment)	<p>Para 13 has been renumbered as Para 17 and amended as follows, and Paras 13-19 have been renumbered Paras 18-24:</p> <p>Social Value Commitment</p> <p>[Insert Not applicable or insert The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with the social value commitments in Schedule 4 (Tender)]</p> <p>[Insert] - The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and provide the Social Value Reports as set out in Schedule 26 (Sustainability)</p> <p>or insert - the Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and report on the Social Value KPIs as required by Schedule 10 (Service Levels)].</p> <p>See also the new definitions of Social Value, Social Value KPIs and Social Value Report, above, and Schedules 2, 10, and 26 below.</p>
Previous Para 20 (Liability), Now Para 25 (Liability)	<p>Para 20 has been renumbered as Para 25 and amended as follows:</p> <p>Liability</p> <p>[In accordance with Clause 15.1 of the Core Terms each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than [the greater of £[5 million] or [150]% of the Estimated Yearly Charges]</p> <p>[Guidance: you can change the cap on liability in Clause 15.1 where you have made an appropriate risk assessment and sought the</p>

	<p>necessary management approvals. Unlimited liability is not permitted in line with the <u>Sourcing Playbook</u></p> <p>In accordance with Clause 15.5, the Supplier’s total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, being [insert appropriate number in the suggested range of £10 million –20 million]</p> <p>[Guidance: Choice of figure should be in accordance with the sensitivity and volume of data concerned, as well as the likelihood and extent of any potential breach. The range given is a suggestion only and depending on the individual circumstances of the contract, a cap outside of this range may be appropriate. Please refer to section 4.4 of the MSC guidance for further detail on what to consider in determining the Data Protection Liability Cap.]</p> <p>This liability cap applies to the Supplier’s liability to the Buyer under the contract only – it does not act as a cap on any data protection liability that a Supplier may incur to any third party (e.g. Supplier being fined by the Information Commissioner). But if a Supplier default leads to the Buyer breaching data protection legislation, the amount which a Buyer will be able to recover from the Supplier will be subject to this liability cap.]</p> <p>See also Clauses 15.5 and 18.8.4 of the Core Terms, above.</p>
<p>Previous Para 21 (Cyber Essentials Certification), Now Para 26 (Cyber Essentials Certification)</p>	<p>Para 21 has been renumbered as Para 26 and amended as follows, and Paras 22-23 have been renumbered Paras 27-28:</p> <p>Cyber Essentials Certification</p> <p>[Delete if not required]</p> <ul style="list-style-type: none"> • [Insert Not required] <p>[or Insert Cyber Essentials Scheme [Basic / Plus] Certificate (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme)]</p>
<p>New Para 29 (Virtual Library)</p>	<p>A new Para 29 has been added as follows, and Paras 24-30 are renumbered Paras 30-36:</p> <p>Virtual Library</p> <p>In accordance with Paragraph 2.2. of Schedule 30 (Exit Management)</p> <ul style="list-style-type: none"> • the period in which the Supplier must create and maintain the Virtual Library, is [as set out in that Paragraph] OR [INSERT alternative time period]; and • the Supplier shall update the Virtual Library every [INSERT applicable time period]. <p>OR</p> <p>[Insert Not applicable]</p> <p>See also Schedule 30, below.</p>

SCHEDULE 1 (Definitions)

Throughout	<p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>Minor corrections have been made to the names of the Schedules where necessary.</p> <p>Incorrect references to “a Contract” have been changed to “the Contract”.</p> <p>Some definitions have been moved into alphabetical order, e.g. Award Form, and Incorporated Forms.</p>
New Para 1.3.13	<p>A new Para 1.3.13 has been added as follows:</p> <p>Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):</p> <ul style="list-style-type: none"> (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“EU References”) which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and (ii) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.
"Additional FDE Group Member"	<p>A new definition has been added as follows:</p> <p>Additional FDE Group Member</p> <p>means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);</p>
"Allowable Assumptions"	<p>A new definition has been added as follows:</p> <p>Allowable Assumptions</p> <p>means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);</p>
"Associates"	<p>A new definition has been added as follows:</p>

	<p>Associates</p> <p>means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;</p>
<p>“Audit”</p>	<p>This definition has been amended as follows:</p> <p>Audit</p> <p>the Buyer’s right to:</p> <ul style="list-style-type: none"> (a) verify the integrity and content of any Financial Report; (b) verify the accuracy of the Charges and any other amounts payable by the Buyer under the Contract (including proposed or actual variations to them in accordance with the Contract); (c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; (d) verify the Open Book Data; (e) verify the Supplier’s and each Subcontractor’s compliance with the applicable Law; (f) identify or investigate actual or suspected breach of Clauses 31 to 37 and/or Schedule 26 (Corporate Social Responsibility Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; (h) obtain such information as is necessary to fulfil the Buyer’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; (j) carry out the Buyer’s internal and statutory audits and to prepare, examine and/or certify the Buyer’s annual and interim reports and accounts; (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
<p>“BACS”</p>	<p>This definition has been deleted as it is not used in the Contract.</p>
<p>“Buyer”</p>	<p>A new definition has been added as follows:</p>

	<p>Buyer the public sector purchaser identified as such in the Order Form;</p>
“Buyer Cause”	<p>This definition has been amended as follows: Buyer Cause any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier; has the meaning given to it in the Award Form;</p>
“Buyer Data”	<p>A new definition has been added as follows: Buyer Data means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Buyer’s or End User’s Confidential Information, and which:</p> <ul style="list-style-type: none"> (a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or (b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or <p>any Personal Data for which the Buyer or End User is the Controller;</p>
“Buyer Existing IPR”	<p>A new definition has been added as follows: Buyer Existing IPR means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Central Government Body, any Crown IPR, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)</p>
“Buyer Third Party”	<p>A new definition has been added as follows: Buyer Third Party means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;</p>
“Collaborative Working Principles”	<p>A new definition has been added as follows: Collaborative Working Principles the principles set out in Clause 3.1.3;</p>
“Contracts Finder”	<p>This definition has been deleted from Schedule 1 as it is defined in Schedule 18.</p>
“Contract Period”	<p>This definition has been amended as follows: Contract Period the Contract Period in respect of the Contract; the term of the Contract from the earlier of the:</p> <ul style="list-style-type: none"> (a) Start Date; or

	<p>(b) the Effective Date</p> <p>(c) until the End Date;</p>
“Controller”	<p>This definition has been amended as follows:</p> <p>Controller</p> <p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
“Core Terms”	<p>This definition has been amended as follows:</p> <p>Core Terms</p> <p>the Buyer’s standard terms and conditions which apply to and for common goods and services which comprise one part of the Contract set out in the document called the full title of which is “Core Terms” – Mid-tier version 1.0;</p>
“Critical Service Level Failure”	<p>A new definition has been added as follows:</p> <p>Critical Service Level Failure</p> <p>has the meaning given to it in the Award Form;</p>
“Crown Body”	<p>This definition has been amended as follows:</p> <p>Crown Body</p> <p>the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including but not limited to government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;</p>
“Crown IPR”	<p>A new definition has been added as follows:</p> <p>Crown IPR</p> <p>means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);</p>
“Data Protection Legislation”	<p>This definition has been amended as follows:</p> <p>Data Protection Legislation</p> <p>(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy; (i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;</p>
“Data Protection Liability Cap”	<p>A new definition has been added as follows:</p>

	<p>Data Protection Liability Cap has the meaning given to it in the Award Form;</p>
"Data Protection Officer"	<p>This definition has been amended as follows: Data Protection Officer has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Data Subject"	<p>This definition has been amended as follows: Data Subject has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Dependent Parent Undertaking"	<p>A new definition has been added as follows: Dependent Parent Undertaking means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;</p>
"Dispute"	<p>This definition has been amended as follows: Dispute any claim, dispute or difference arises (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;</p>
"DPA 2018"	<p>A new definition has been added as follows: DPA 2018 The Data Protection Act 2018</p>
"Employment Regulations"	<p>This definition has been amended as follows: Employment Regulations the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;</p>
"End Date"	<p>This definition has been amended as follows:</p>

	<p>End Date</p> <p>the earlier of:</p> <p>(a) the Expiry Date as extended by any Extension Period exercised by the Buyer under Clause 14.2; or</p> <p>(b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
"End User"	<p>A new definition has been added as follows:</p> <p>End User</p> <p>means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);</p>
"Escalation Meeting"	<p>A new definition has been added as follows:</p> <p>Escalation Meeting</p> <p>means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;</p>
"EU"	<p>A new definition has been added as follows:</p> <p>EU</p> <p>European Union;</p>
"EU GDPR"	<p>A new definition has been added as follows:</p> <p>EU GDPR</p> <p>Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;</p>
"Exit Plan"	<p>The definition is now defined in Schedule 1 and within the text of Schedule 30.</p>
"Extension Period"	<p>This definition has been amended as follows:</p> <p>Extension Period</p> <p>such period or periods beyond which the Initial Period may be extended up to a maximum of the number of years in total specified in the Award Form;</p>
"FDE Group"	<p>A new definition has been added as follows:</p> <p>FDE Group</p> <p>the Supplier and any Additional FDE Group Member;</p>
"Financial Distress Event"	<p>This definition of Financial Distress Event has been moved from Schedule 24 and amended as follows:</p> <p>Financial Distress Event</p>

The occurrence or one or more of the following events:

- (a) the credit rating of ~~the Monitored Company~~ any FDE Group entity ~~dropping~~ drops below the applicable Credit Rating Threshold of the relevant Rating Agency;
- (b) ~~the Monitored Company issuing~~ any FDE Group entity issues a profits warning to a stock exchange or ~~making~~ makes any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of ~~the Monitored Company~~ any FDE Group entity;
- (d) ~~the Monitored Company~~ any FDE Group entity commits a material breach of covenant to its lenders;
- (e) a Key Subcontractor (~~where applicable~~) ~~notifying~~ notifies the Buyer that the Supplier has not ~~satisfied~~ paid any material sums properly due under a specified invoice and not subject to a genuine dispute; ~~or~~
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- (i) any of the following:
 - (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (ii) commencement of any litigation against ~~the Monitored Company~~ any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (iii) non-payment by ~~the Monitored Company~~ any FDE Group entity of any financial indebtedness;

	<p>(iv) any financial indebtedness of the Monitored Company any FDE Group entity becoming due as a result of an event of default;</p> <p>(v) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company any FDE Group entity; or</p> <p>(vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,</p> <p>in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and provision of the Deliverables in accordance with any the Contract; or</p> <p>(j) any [one] of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target</p>
<p>“Financial Report”</p>	<p>A new definition has been added as follows:</p> <p>Financial Report</p> <p>a report provided by the Supplier to the Buyer that:</p> <p>(a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</p> <p>(b) provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</p> <p>(c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of this Contract; and</p> <p>is certified by the Supplier's Chief Financial Officer or Director of Finance;</p>
<p>“Financial Transparency Objectives”</p>	<p>A new definition has been added as follows:</p> <p>Financial Transparency Objectives</p> <p>means:</p> <p>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;</p> <p>(b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</p>

	<ul style="list-style-type: none"> (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges; (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services; (e) the Parties challenging each other with ideas for efficiency and improvements; and (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;
"Force Majeure Event"	<p>This definition has been amended as follows:</p> <p>Force Majeure Event</p> <p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under the Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and (iii) any failure of delay caused by a lack of funds, <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"GDPR"	This definition has been deleted as it has been replaced by UK GDPR and EU GDPR .
"Incorporated Terms"	A new definition has been added as follows: Incorporated Terms the contractual terms applicable to the Contract specified in the Award Form;
Previous "Independent Control", Now	This definition of Independent Control has changed to Independent Controller and has been amended as follows: Independent Control Independent Controller

<p>“Independent Controller”</p>	<p>where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and “Independent Controller” shall be construed accordingly; a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;</p>
<p>“Insolvency Event”</p>	<p>This definition has been amended as follows:</p> <p style="text-align: center;">Insolvency Event</p> <p>in respect of a person:</p> <ul style="list-style-type: none"> (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or (c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or (g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or (h) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or (i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction; <p>with respect to any person, means:</p> <ul style="list-style-type: none"> (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:

	<ul style="list-style-type: none"> (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; <p>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;</p> <p>(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <ul style="list-style-type: none"> (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person; (iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
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	<p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
"IP Completion Day"	<p>A new definition has been added as follows:</p> <p>IP Completion Day has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;</p>
"Joint Control"	<p>A new definition has been added as follows:</p> <p>Joint Control where two or more Controllers jointly determine the purposes and means of Processing;</p>
Previous "Key Personnel", Now "Key Staff"	<p>This definition of Key Personnel has changed to Key Staff and has been amended as follows:</p> <p>Key PersonnelKey Staff the individuals (if any) identified as such in the Award Form; the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);</p>
"Know-How"	<p>This definition has been amended as follows:</p> <p>Know-How all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;</p>
"Law"	<p>This definition has been amended as follows:</p> <p>Law any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972 the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;</p>
"Law Enforcement Processing"	<p>A new definition has been added as follows:</p> <p>Law Enforcement Processing processing under Part 3 of the DPA 2018;</p>
"Lots"	<p>This definition has been deleted as it is not used in the Contract.</p>
"New IPR"	<p>This definition has been amended as follows:</p>

	<p>New IPR</p> <p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR. Unless otherwise agreed in writing, any New IPR should be recorded in Schedule 36 and updated regularly;</p>
"New IPR Item"	<p>A new definition has been added as follows:</p> <p>New IPR Item means a deliverable, document, product or other item within which New IPR subsists;</p>
"Notifiable Default"	<p>A new definition has been added as follows:</p> <p>Notifiable Default means:</p> <p>(a) the Supplier commits a material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
"Open Licence"	<p>A new definition has been added as follows:</p> <p>Open Licence means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles;</p>
"Open Licence Publication Material"	<p>A new definition has been added as follows:</p> <p>Open Licence Publication Material means items created pursuant to the Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;</p>
"Parent Undertaking"	<p>A new definition has been added as follows:</p> <p>Parent Undertaking has the meaning set out in section 1162 of the Companies Act 2006;</p>
"Performance Indicators"	<p>This definition has been deleted as it is not used in the Contract</p>
"Processing"	<p>A new definition has been added as follows:</p>

	<p>Processing</p> <p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Processor"	<p>A new definition has been added as follows:</p> <p>Processor</p> <p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Processor Personnel"	<p>A new definition has been added as follows:</p> <p>Processor Personnel</p> <p>all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;</p>
"Progress Meeting Frequency"	This definition has been deleted as it is not used in the Contract
"Progress Report Frequency"	This definition has been deleted as it is not used in the Contract
"Protective Measures"	<p>This definition has been amended as follows:</p> <p>Protective Measures</p> <p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> (a) the nature of the data to be protected (b) harm that might result from Data Loss Event; (c) state of technological development (d) the cost of implementing any measures <p>including but not limited to pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
"Public Sector Body"	<p>A new definition has been added as follows:</p> <p>Public Sector Body</p> <p>means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;</p>
"Rating Agency"	This definition has been deleted as " Ratings Agencies " is defined in Schedule 24.
"Rectification Plan"	<p>This definition has been amended as follows:</p> <p>Rectification Plan</p> <p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan Template) which shall include:</p>

	<p>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</p> <p>(b) the actual or anticipated effect of the Notifiable Default; and</p> <p>(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);</p>
"Replacement Subcontractor"	This definition has been moved from Schedule 1 to Schedule 7.
"Required Action"	A new definition has been added as follows: Required Action means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
"Service Credits"	This definition has been moved from Schedule 10 to Schedule 1 as it is used in more than one Schedule.
"Service Transfer"	This definition has been moved from Schedule 1 to Schedule 7.
"Service Transfer Date"	This definition has been moved from Schedule 1 to Schedule 7.
"Social Value"	A new definition has been added as follows: Social Value the additional social benefits that can be achieved in the delivery of the Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value KPIs"	A new definition has been added as follows: Social Value KPIs the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value Report"	A new definition has been added as follows: Social Value Report the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used
"Special Terms"	This definition has been amended as follows: Special Terms any additional Clauses terms and conditions set out in the Award Form which shall form part of the respective Contract incorporated into the Contract;
"Special IPR Terms"	A new definition has been added as follows: Special IPR Terms any additional terms and conditions relating to IPR set out in the Award Form incorporated into the Contract;
"Step-In Process"	A new definition has been added as follows: Step-In Process the process set out in Clause 13;

"Step-In Trigger Event"	<p>A new definition has been added as follows:</p> <p>Step-In Trigger Event</p> <p>means:</p> <ul style="list-style-type: none"> (a) the Supplier's level of performance constituting a Critical Service Level Failure; (b) the Supplier committing a material Default which is irremediable; (c) where a right of termination is expressly reserved in this Contract; (d) an Insolvency Event or Financial Distress Event occurring in respect of the Supplier or any Guarantor required under the Award Form; (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them; (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement; (g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary; (h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or (i) a need by the Buyer to take action to discharge a statutory duty;
"Step-Out Plan"	<p>A new definition has been added as follows:</p> <p>Step-Out Plan</p> <p>means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under the Contract following the completion of the Step-In Process;</p>
"Subsidiary Undertaking"	<p>A new definition has been added as follows:</p> <p>Subsidiary Undertaking</p> <p>has the meaning set out in section 1162 of the Companies Act 2006;</p>
"Supplier Existing IPR"	<p>A new definition has been added as follows:</p> <p>Supplier Existing IPR</p> <p>any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)</p>
"Supplier Existing IPR Licence"	<p>A new definition has been added as follows:</p> <p>Supplier Existing IPR Licence</p> <p>means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Para 1.3 of Schedule 36.</p>
"Supplier Group"	<p>A new definition has been added as follows:</p>

	<p>Supplier Group</p> <p>means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;</p>
"Supplier Personnel"	The definition has been deleted as it is not used in the Contract. See Supplier Staff .
"Termination Assistance"	This definition has been moved from Schedule 30 to Schedule 1.
"Termination Assistance Notice"	This definition has been moved from Schedule 30 to Schedule 1.
"Third Party IPR Licence"	<p>A new definition has been added as follows:</p> <p>Third Party IPR Licence</p> <p>means a licence to the Third Party IPR as set out in Para 1.6 of Schedule 36.</p>
"Transferring Supplier Employees"	This definition has been moved from Schedule 1 to Schedule 7.
"UK GDPR"	<p>A new definition has been added as follows:</p> <p>UK GDPR</p> <p>Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019</p>
"Variation"	<p>The definition has been amended as follows:</p> <p>Variation</p> <p>has the meaning given to it in Clause 24 (Changing the contract) means a variation to the Contract;</p>
"Verification Period"	<p>A new definition has been added as follows:</p> <p>Verification Period</p> <p>has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);</p>

SCHEDULE 2 (Specification)

Guidance	<p>The Guidance in this Schedule has been amended as follows:</p> <p>[Guidance: Your specification must secure real social, environmental and economic benefits in line with social value legislations set out in PPN 06/20. To do this you and your stakeholders (including suppliers) need to be clear what the social value priorities are. How your priorities are delivered will be included in Schedule 4 (Tender) and will form part of the Contract. This specification must elaborate on these as appropriate.</p> <p>Buyer Guidance:- Refer to PPN 06/20 and your own policies and practices to understand how to include social value in your specifications. Target levels and performance reporting requirements will either be in Schedule 10 (Service Levels) or Schedule 26 (Sustainability) (in the event that Schedule 10 is not used).]</p> <p>See also the amendments to Schedule 10 and 26, below, and the Award Form, above.</p>
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SCHEDULE 3 (Charges)

Throughout	<p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>Incorrect references to “Contract Commencement Date” have been changed to “Start Date”.</p> <p>Incorrect references to “Sub-Contractor” have been changed to “Subcontractor”.</p> <p>Incorrect references to “clauses” have been changed to “paragraphs”.</p>
New Para 1 (Definitions)	<p>A new Para 1 has been added as follows, and Paras 1-3 have been renumbered Paras 2-4:</p> <p>1. DEFINITIONS</p> <p>[Delete Paragraph 1 if the Maximum Permitted Profit Margin is not to apply (Paragraph 5.5).]</p> <p>1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):</p> <p>" Anticipated Contract Life Profit Margin" the anticipated Supplier Profit Margin over the Contract Period;</p>

	<p>"Maximum Permitted Profit Margin" means the Anticipated Contract Life Profit Margin plus 5%;</p>
<p>Previous Para 4, Now Para 5</p>	<p>Para 4 has been renumbered as Para 5 and a new Para 5.5 has also been inserted as follows:</p> <p>5.5 [Any Approval granted by the Buyer pursuant to Paragraph 5.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.]</p>
<p>Previous Para 5, Now Para 6</p>	<p>Para 5 has been renumbered as Para 6 and amended as follows:</p> <p>...</p> <p>6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;</p> <p>a review in accordance with insurance requirements in Clause 13;</p> <p>6.1.2 [Delete if there is no Benchmarking Schedule: a benchmarking review in accordance with Schedule 12 (Benchmarking)];</p> <p>6.1.3 a request from the Supplier, which it can make at any time, to decrease the Charges;</p> <p>6.1.4 [Delete 5.1.5 if Paragraph 7 is not used: indexation, where Annex 1 states that a particular Charge or any component is "subject to Indexation" in which event Paragraph 7 below shall apply; and]</p> <p>6.1.5 following verification of the Allowable Assumptions in accordance with Paragraph 9.</p>
<p>New para 9 (Allowable Assumptions)</p>	<p>Paras 6-7 have been renumbered Paras 7-8, and a new Para 9 has been added as follows:</p> <p>9. [Delete Paragraph if not applicable: Allowable Assumptions</p> <p><i>[Buyer Guidance: Buyers may consider using this paragraph if the Supplier has any concerns about the information provided or the operating environment. The Allowable Assumptions provisions allow the Supplier to set out any identifiable risks and ensures that the contract price changes only if those risks materialise. Any change will need to be carefully considered by the Buyer because it may affect the legitimacy of the procurement process and any contract modification will need to be lawful under the Public Contracts Regulations 2015.]</i></p> <p><i>If bidders have not had the opportunity to complete their Due Diligence process it may take longer to negotiate the contract, or produce cost escalation and lead to commercial disputes post contract signing. Buyers should always try to provide the required information before using the Allowable Assumptions mechanisms. The Allowable</i></p>

Assumptions should only be used in exceptional circumstances, for example, when the information is not available at the requisite time.

Please refer to the sections on Due Diligence and Allowable Assumptions in the latest version of the Model Services Contract Guidance on gov.uk for information on how Buyers should approach this]

- 9.1 Before the end of its associated Verification Period, the Supplier will determine whether each Allowable Assumption is accurate.
- 9.2 The Buyer will provide the Supplier with reasonable assistance when it is determining if an Allowable Assumption is accurate.
- 9.3 Within 10 Working Days following the end of a Verification Period, the Supplier will send a written report to the Buyer setting out its verification results for the relevant Allowable Assumption, including whether the Charges or Implementation Plan (if applicable) require adjustment.
- 9.4 Each Allowable Assumption will be deemed to be accurate if the Supplier cannot show has an impact on the Charges or the Implementation Plan to the reasonable satisfaction of the Buyer.
- 9.5 If the Supplier can show that an Allowable Assumption has an impact on either the Charges or the Implementation Plan (if applicable) then:
 - 9.5.3 the Supplier will take all reasonable steps to mitigate the impact of the Allowable Assumption;
 - 9.5.4 the Supplier may propose a reasonable Variation arising as a direct result of such impact and such Variation shall be limited by any constraints set out in the table in Annex 2.]

A new Annex 2 has been added as follows:

Annex 2: Allowable Assumptions

[Buyer Guidance: Delete Annex if Paragraph 9 not used]

New Annex 2
(Allowable Assumptions)

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Ref	Description	Potential time impact if not accurate	Potential cost impact if not accurate	How it will be tested	Maximum impact period	Verification period

	See also the new definition of Allowable Assumptions and Clause 2.4 of the Core Terms, above.								

SCHEDULE 4 (Tender)	
Throughout	No changes.

SCHEDULE 5 (Commercially Sensitive Information)	
Throughout	References to clauses in the Core Terms have been renumbered, where necessary.

SCHEDULE 6 (Transparency Reports)	
Throughout	No changes.

SCHEDULE 7 (Staff Transfer)	
Throughout	References to clauses in the Core Terms have been renumbered, where necessary.
	Incorrect references to “Sub-contractor” have been changed to “Subcontractor”.
	Incorrect references to “Services” have been changed to “Deliverables”.

	<p>Incorrect references to “Supplier Personnel” have been changed to “Supplier Staff”.</p> <p>Some definitions have been moved into alphabetical order, e.g. Supplier's Final Supplier Staff List, and Supplier's Provisional Supplier Staff List.</p>
Guidance	<p>Part of the Guidance at the start of the Schedule has been amended as follows:</p> <p><i>If the position on staff transfers is not known at the bid stage, include Parts A, B, C and D at the bid stage and then update the Buyer Contract Details before signing to specify whether Parts A and/or B, or C and D apply to the Contract. Buyers should note that which parts of this schedule are applicable is likely to be material to Suppliers for bid development and pricing and therefore clarity on this early on in the procurement process is likely to assist Suppliers in preparing bids.</i></p>
Para 1.1 “Admission Agreement”	<p>A new definition has been added as follows:</p> <p>Admission Agreement as defined in Part D;</p>
Para 1.1 “Fair Deal Employees”	<p>A new definition has been added as follows:</p> <p>Fair Deal Employees as defined in Part D;</p>
Para 1.1 “Former Supplier”	<p>This definition has been amended as follows:</p> <p>Former Supplier a supplier supplying the Services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Sub-contractorsubcontractor of such supplier (or any Sub-contractorsubcontractor of any such Sub-contractorsubcontractor);</p>
Para 1.1 “New Fair Deal”	<p>A new definition has been added as follows:</p> <p>New Fair Deal the revised Fair Deal position set out in the HM Treasury guidance: “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 including:</p> <ul style="list-style-type: none"> (g) any amendments to that document immediately prior to the Relevant Transfer Date; (h) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;

Para 1.1 “Notified Subcontractor”	<p>A new definition has been added as follows:</p> <p>Notified Subcontractor</p> <p>a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;</p>
Para 1.1 “Old Fair Deal”	<p>A new definition has been added as follows:</p> <p>Old Fair Deal</p> <p>HM Treasury Guidance “<i>Staff Transfers from Central Government: A Fair Deal for Staff Pensions</i>” issued in June 1999 including the supplementary guidance “<i>Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues</i>” issued in June 2004;</p>
Para 1.1 “Replacement Subcontractor”	<p>This definition has been moved from Schedule 1 to Schedule 7.</p>
Para 1.1 “Relevant Transfer Date”	<p>This definition has been amended as follows:</p> <p>Relevant Transfer Date</p> <p>in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D: Pensions, shall include the Start Date, where appropriate; and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;</p>
Para 1.1 “Service Transfer”	<p>This definition has been moved from Schedule 1 to Schedule 7.</p>
Para 1.1 “Service Transfer Date”	<p>This definition has been moved from Schedule 1 to Schedule 7.</p>
Para 1.1 “Staffing Information”	<p>This definition has been amended as follows:</p> <p>Staffing Information</p> <p>in relation to all persons identified on the Supplier's Provisional Supplier PersonnelStaff List or Supplier's Final Supplier PersonnelStaff List, as the case may be, such, all information as required in 0 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably request (subject make changes to all applicable provisions of the Data Protection Laws), but including in an anonymised format:</p> <p>(a) — their ages, dates of commencement of employment the format or engagement, gender and place of work; information requested in 0 from time to time</p> <p>(b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;</p>

	<p>the identity of the employer or relevant contracting Party;</p> <p>(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;</p> <p>(e) their wages, salaries, bonuses and profit sharing arrangements as applicable;</p> <p>(f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;</p> <p>(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);</p> <p>(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;</p> <p>(i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and</p> <p>(j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;</p>
Para 1.1 "Statutory Schemes"	This definition has been moved to this Para 1.1 from Para 1 of Part D.
Para 1.1 "Term"	This definition has been deleted from this Schedule as it is already in Schedule 1.
Para 1.1 "Transferring Buyer Employees"	<p>This definition has been amended as follows:</p> <p>Transferring Buyer Employees those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date; and</p>
Para 1.1 "Transferring Former Supplier Employees"	<p>This definition has been amended as follows:</p> <p>Transferring Former Supplier Employees in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date.</p>

Para 1.1 “Transferring Supplier Employees”	The definition of Transferring Supplier Employees has been moved from Schedule 1 to Schedule 7.
Para 3	<p>Para 3 has been numbered and amended as follows:</p> <p>Only the following parts of this Schedule shall apply to this Contract:</p> <p>[Delete if not applicable to the Contract]</p> <p>3.1 [Part A (Staff Transfer At Start Date – Outsourcing Transferring Employees From the Buyer to the Supplier)]</p> <p>3.2 [Part B (Staff Transfer At Start Date – Transfer From Former Supplier)]</p> <p>3.3 [Part C (No Staff Transfer On Start Date)]</p> <p>3.4 [Part D (Pensions)]</p> <p> 1.1.1 [- Annex D1 (CSPS)]</p> <p> 1.1.2 [- Annex D2 (NHSPS)]</p> <p> 1.1.3 [- Annex D3 (LGPS)]</p> <p> 1.1.4 [- Annex D4 (Other Schemes)]</p> <p>3.5 Part E (Staff Transfer on Exit)</p> <p> 3.5.1 Annex E1 (List of Notified Subcontractors)</p> <p> 3.5.2 Annex E2 (Staffing Information)</p>
Part A	<p>Part A has been renamed as follows:</p> <p>Part A: Staff Transfer at the Start Date Outsourcing Transferring Employees from the Buyer to the Supplier</p>
Para 1.1.3 of Part A	<p>Para 1.1.3 of Part A has been amended as follows:</p> <p>1.1.3 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).</p>

<p>Para 2.1 of Part A</p>	<p>Para 2.1 of Part A has been amended as follows:</p> <p>2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:</p> <ul style="list-style-type: none"> a) any act or omission by the indemnifying party Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date-; b) the breach or non-observance by the Buyer before the Relevant Transfer Date of: <ul style="list-style-type: none"> (i) any collective agreement applicable to the Transferring Buyer Employees; and/or (ii) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour; c) any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date; d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions: <ul style="list-style-type: none"> (i) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and (ii) in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date. e) a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date; f) any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer
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	<p>Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of the Employment Regulations; and</p> <p>g) any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.</p>
<p>Para 2.2 of Part A</p>	<p>Para 2.2 of Part A has been amended as follows:</p> <p>2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:</p> <p>a) arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or</p> <p>b) arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.</p>
<p>Para 2.3 of Part A</p>	<p>Para 2.3 of Part A has been amended as follows:</p> <p>2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of the Buyer who is not identified as a Transferring Buyer Employee claims, or it is determined in relation to any employees of the Buyer, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then -</p> <p>2.3.1 the Supplier will, or shall procure that the Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;</p> <p>2.3.2 the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 15 15 Working Days of receipt of notice from the Supplier and/or any Subcontractor, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with the Law;</p> <p>2.3.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately</p>

	<p>release the person from its employment or alleged employment;</p> <p>2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;</p> <p>and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 and in accordance with all applicable proper employment procedures set out in applicable Law, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in this Paragraph 1 provided that the Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.</p>
<p>Para 3.1 of Part A</p>	<p>Para 3.1 of Part A has been amended as follows:</p> <p>3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:</p> <ul style="list-style-type: none"> a) any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date; b) the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of: <ul style="list-style-type: none"> (i) any collective agreement applicable to the Transferring Buyer Employees; and/or (ii) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is contractually bound to honour; c) any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date; d) any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the

Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

- e) any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;
- f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- g) a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees in respect of the period from (and including) the Relevant Transfer Date;
- h) any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- i) a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.6 above.

Para 3.2 of Part A	<p>Para 3.2 of Part A has been amended as follows:</p> <p>3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.</p>
Para 3.3 of Part A	<p>Para 3.3 of Part A has been amended as follows:</p> <p>3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under Part D: Pensions the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier.</p>
Para 5.2 of Part A	<p>Para 5.2 of Part A has been amended as follows:</p> <p>5.2 The Supplier shall, and shall procure that each Subcontractor shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.:</p> <ul style="list-style-type: none"> (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013; (ii) Old Fair Deal; and/or (iii) the New Fair Deal.
Para 6.1 of Part A	<p>Para 6.1 of Part A has been amended as follows:</p>

	<p>6.1 The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:</p> <p>6.1.1 all statutory pension obligations in respect of all Transferring Buyer Employees; and</p> <p>6.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and</p> <p>6.1.2 the provisions in Part D: Pensions (and its Annexes) to this Staff Transfer Schedule.</p>
Para 1.2 of Part B	<p>Para 1.2 of Part B has been amended as follows:</p> <p>1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.</p>
Para 2.1 of Part B	<p>Para 2.1 of Part B has been amended as follows:</p> <p>2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:</p> <ul style="list-style-type: none"> a) any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date; b) the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of: <ul style="list-style-type: none"> (i) any collective agreement applicable to the Transferring Former Supplier Employees; and/or (ii) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour; c) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

	<ul style="list-style-type: none"> (i) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and (ii) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date; <ul style="list-style-type: none"> d) a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date; e) any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of this Agreement and/or the Employment Regulations; and f) any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
Para 2.2 of Part B	<p>Para 2.2 of Part B has been amended as follows:</p> <p>2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:</p> <ul style="list-style-type: none"> a) arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to

	<p>occur in the period from (and including) the Relevant Transfer Date; or</p> <p>b) arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.</p>
<p>Para 2.3 of Part B</p>	<p>Para 2.3 of Part B has been amended as follows:</p> <p>2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor Subcontractor pursuant to the Employment Regulations then:</p> <p>2.3.1 the Supplier will shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing; and</p> <p>2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter provided always that such steps are in compliance with applicable Law, within 10 15 Working Days of receipt of notice from the Supplier;</p> <p>2.3.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall immediately release the person from its employment;</p> <p>2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;</p> <p>a) no such offer has been made;</p> <p>b) such offer has been made but not accepted; or</p> <p>c) The situation has not otherwise been resolved</p> <p>the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;</p>

	<p>and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in Paragraph 1 provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.</p>
<p>Para 2.4 and Para 2.5 of Part B</p>	<p>Para 2.4 and Para 2.5 of Part B has been amended and renumbered as para 2.4 as follows, and Para 2.6 has been renumbered Para 2.5:</p> <p>2.4 The indemnity in Paragraph 1:</p> <ul style="list-style-type: none"> a) shall not apply to: <ul style="list-style-type: none"> (i) any claim for: <ul style="list-style-type: none"> (A) for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief–; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, <p>arising as a result of any alleged act or omission of the Supplier and/or any Subcontractor; or</p> <ul style="list-style-type: none"> (ii) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and <p>2.5 The indemnity in Paragraph 2.3</p> <ul style="list-style-type: none"> b) shall not apply to any termination of employment occurring later than 36 Months from the Relevant Transfer Date.
<p>Para 3.1 of Part B</p>	<p>Para 3.1 of Part B has been amended as follows:</p> <p>3.1 Subject to Paragraph 3.43.2, the Supplier shall indemnify the Buyer, and the Former Supplier against any Employee Liabilities arising from or as a result of:</p> <ul style="list-style-type: none"> a) any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date; b) the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:

	<ul style="list-style-type: none"> (i) any collective agreement applicable to the Transferring Former Supplier Employee; and/or (ii) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour; <p>c) any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;</p> <p>d) any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;</p> <p>e) any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;</p> <p>f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions: <ul style="list-style-type: none"> (i) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and (ii) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former </p>
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	<p>Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;</p> <p>g) a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;</p> <p>h) any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and</p> <p>i) a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above.</p>
Para 3.2 of Part B	<p>Para 3.2 of Part B has been amended as follows:</p> <p>3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.</p>
Para 3.3 of Part B	<p>Para 3.3 of Part B has been amended as follows:</p> <p>3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under Part D: Pensions the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary</p>

	<p>apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.</p>
Para 4 of Part B	<p>Para 4 of Part B has been amended as follows: The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.</p>
Para 5.1 of Part B	<p>Para 5.1 of Part B has been amended as follows:</p> <p>5.1 The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999"; (iii) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.:</p> <p>(i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;</p> <p>(ii) Old Fair Deal; and/or</p> <p>(iii) the New Fair Deal.</p>
Para 7.1 of Part B	<p>Para 7.1 of Part B has been amended as follows:</p> <p>7.1 The Supplier shall, and shall procure that each of its Subcontractors shall, comply with:</p> <p>7.1.1 all statutory pension obligations in respect of all Transferring Former Supplier Employees; and</p> <p>7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and</p> <p>7.1.2 the provisions in Part D: Pensions (and its Annexes) to this Staff Transfer Schedule.</p>

<p>Para 1.2 of Part C</p>	<p>Para 1.2 of Part C has been amended as follows:</p> <p>1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:</p> <p>1.2.1 the Supplier willshall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;</p> <p>1.2.2 and, where required by the Buyer may offer, give notice to the Former Supplier; and;</p> <p>1.2.3 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 4015 Working Days of receipt of notice from the Supplier or the Subcontractor, provided always that such steps are in compliance with applicable Law;</p> <p>1.2.4 if such offer of employment is accepted, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from its employment;</p> <p>1.2.5 if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;</p> <p>and subject to the Supplier's compliance with Paragraphs 1.2 to 1.2.5 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.5:</p> <p>a) the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the Notified Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and</p> <p>b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.</p>
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New Para 1.3 of Part C	<p>A new Para 1.3 of Part C has been inserted as follows:</p> <p>1.3 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.2 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.</p>
New Para 1.4 of Part C	<p>A new Para 1.4 of Part C has been inserted as follows:</p> <p>1.4 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.</p>
Previous Para 1.3, Now Para 1.5 of Part C	<p>Previous Para 1.3 of Part C has been renumbered Para 1.5 of Part C and sub-paras as follows, and Paras 1.4 and 1.5 of Part C have been renumbered Para 1.6 and 1.7 of Part C:</p> <p>1.5 The indemnities in Paragraph 1.2 shall not apply to any claim:</p> <p>1.5.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief;</p> <p>1.5.2 or equal pay or compensation for less favourable treatment of part time workers or fixed-term employees, in relation to any alleged act or omission of the Supplier and/or Subcontractor; or</p> <p>1.5.3 any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and</p>
Para 1 of Part D	<p>Para 1 of Part D has been amended as follows:</p> <p>In this Part D and Part E, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:</p>
Para 1 of Part D “Best Value Direction”	<p>A new definition has been inserted as follows:</p> <p>Best Value Direction the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);</p>

Para 1 of Part D “Direction Letter/Determination”	A new definition is inserted as follows: Direction Letter/Determination has the meaning in Annex D2 to this Part D;
Para 1 of Part D “Fair Deal Eligible Employees”	A new definition has been inserted as follows: Fair Deal Eligible Employees means each of the CSPS Eligible Employees (as defined in Annex D1 to this Part D), the NHSPS Eligible Employees (as defined in Annex D2 to this Part D) and/or the LGPS Eligible Employees (as defined in Annex D3 to this Part D) (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 10 or 11 of this Part D);
Para 1 of Part D “New Fair Deal”	This definition has been amended as follows: New Fair Deal the revised Fair Deal position set out in the HM Treasury guidance: " <i>Fair Deal for Staff Pensions: Staff Transfer from Central Government</i> " issued in October 2013 including: <ul style="list-style-type: none">(a) any amendments to that document immediately prior to the Relevant Transfer Date; and(b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the GCS or Buyer; and
Para 1 of Part D “Statutory Schemes”	This definition has been moved to Para 1.1 from this Para 1 of Part D.
Para 2.2 of Part D	Para 2.2 of Part D has been amended as follows: 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/ Determination , if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
Para 2.3 of Part D	Para 2.3 of Part D has been amended as follows: 2.3 The Supplier undertakes: <ul style="list-style-type: none">2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and2.3.2 subject to Paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

<p>New Para 2.4 of Part D</p>	<p>A new Para 2.4 of Part D has been inserted as follows:</p> <p>2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.</p>
<p>New Para 3.1.3 of Part D</p>	<p>A new Para 3.1.3 of Part D has been inserted as follows:</p> <p>3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former New Deal Eligible Employees arising on expiry or termination of this Contract.</p>
<p>Para 4.1 and Para 4.2 of Part D</p>	<p>Para 4.1 and Para 4.2 of Part D has been amended and renumbered as para 4.1 of Part D as follows, and Para 4.3 of Part D has been renumbered Para 4.2 of Part D:</p> <p>4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified [NHS Pensions,] the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever arising suffered or incurred by it or them which:</p> <ul style="list-style-type: none"> a) arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise arises from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement or relates b) relate to the payment of benefits under and/or participation in an occupational a pension scheme (within the meaning provided for as defined in section 150(1-of the Pension Schemes-) Finance Act-1993) or the Fair Deal Schemes- 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of this Agreement, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part D; c) The Supplier hereby indemnifies the NHS Pensions, the Buyer and/or any Replacement Supplier and/or

	<p>Replacement Sub-contractor from and against all Losses suffered or incurred by it or them which arise from relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:</p> <ul style="list-style-type: none"> (i) relate to any rights to benefits under a pension rights scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or (ii) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract; and/or <p>d) arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.</p>
Para 5.1 of Part D	<p>Para 5.1 of Part D has been amended as follows:</p> <p>5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute (i) between the Buyer and the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:</p> <ul style="list-style-type: none"> 5.1.1 who will act as an expert and not as an arbitrator; 5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and the Supplier unless the independent Actuary shall otherwise direct.
New Para 5.2 of Part D	<p>A new Para 5.2 of Part D has been inserted as follows:</p> <p>5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.</p>

<p>Para 8.1 of Part D</p>	<p>Para 8.1 of Part D has been amended as follows:</p> <p>8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall and shall procure that any relevant Subcontractor shall:</p> <p>8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangement for participation with the relevant Statutory Scheme(s);</p> <p>8.1.2 consult with about, and inform those Fair Deal Employees of, the pension provisions relating to that transfer; and</p> <p>8.1.3 procure that the employer to which the Fair Deal Employees are transferred (the "New Employer") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.</p>
<p>New Para 9.2 of Part D</p>	<p>A new Para 9.2 of Part D is inserted as follows, and Para 9 of Part D is renumbered Para 9.1 of Part D:</p> <p>9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.</p>
<p>Para 10 and new Para 11 of Part D</p>	<p>Para 10 of Part D has been amended and renumbered Para 10 and Para 11 of Part D as follows:</p> <p>10. BROADLY COMPARABLE PENSION SCHEMES ON THE RELEVANT TRANSFER DATE</p> <p>10.1 If either:</p> <p>10.1.1 the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: 4 of Annex D2: NHSPS and or 4 of Annex D3: or 3.1 of Annex D3: LGPS apply; and/or</p> <p>10.1.2 the Buyer agrees, having considered the exceptional cases provided for in New Fair Deal, (such agreement not to be unreasonably withheld) that the Supplier (and/or its</p>

~~Sub-contractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;~~ applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date ~~or if later cessation of participation in the Statutory Scheme~~ until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

10.2 Such Broadly Comparable pension scheme must be:

- a) established by the Relevant Transfer Date;
- b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
- d) capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
- e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

10.3 Where the Supplier has ~~set up~~ provided a Broadly Comparable pension ~~scheme or schemes~~ pursuant to the provisions of ~~this Paragraph 10.1, 10~~, the Supplier shall (and shall procure that any of its Subcontractors shall):

- a) supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than ~~28~~ seven (7) days ~~before~~ after receipt of the ~~Relevant Transfer Date~~ certificate;
- b) be fully ~~fund any such~~ responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing

participation in and/or withdrawal and exit from the Broadly Comparable pension scheme ~~in accordance with the funding requirements set by that Broadly Comparable pension scheme's Actuary or by the Government Actuary's Department~~, including for the ~~period ending on~~ avoidance of doubt any debts arising under section 75 or 75A of the ~~Service Transfer Date~~; Pensions Act 1995;

c) instruct any such Broadly Comparable pension scheme's Actuary to ~~;~~ provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance ~~in respect of~~ with any ~~such Broadly Comparable pension scheme as the Replacement Supplier and/or NHS Pension and/or CSPS~~ other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or ~~the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate~~ pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the ~~appropriate Statutory Scheme~~ Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee ~~that remain eligible for New Fair Deal protection following a Service Transfer~~; who consents to such a transfer; and

d) provide a replacement Broadly Comparable pension scheme ~~in accordance with this Paragraph 10~~ with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is ~~closed to future accrual and/or terminated~~; The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there

are benefit differences between the two schemes).

10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Agreement:

- a) allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the ~~relevant Statutory Scheme and as is relevant on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal. For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the appropriate Statutory Scheme to fund day for day service ("Shortfall"), the Supplier or the Sub-contractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Sub-contractor, the Shortfall shall be paid by the Supplier;~~ Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with Paragraph 10.3c) such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with Paragraph 10.3c) but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or

Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and

- b) if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had Paragraph a) been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this Paragraph.

~~10.2.6 indemnify the Buyer and/or NHS Pension and/or GSPS and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 above.~~

11. BROADLY COMPARABLE PENSION SCHEMES IN OTHER CIRCUMSTANCES

11.1 If the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

11.2 Such Broadly Comparable pension scheme must be:

- a) established by the date of cessation of participation in the Statutory Scheme;
- b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);

d) capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and

e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):

a) supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;

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

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

d) provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant

	<p>Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).</p> <p>11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Agreement allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("the Shortfall"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this Paragraph.</p>
<p>New Para 12 of Part D</p>	<p>A new Para 12 has been inserted as follows:</p> <p>12. RIGHT OF SET-OFF</p> <p>12.1 The Buyer shall have a right to set off against any payments due to the Supplier under this Agreement an amount equal to:</p> <p>a) any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPS or any CSPS Admission Agreement in respect of</p>

	<p>the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;</p> <p>b) any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPS or any Direction Letter/Determination in respect of the NHSPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or</p> <p>c) any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;</p> <p>and shall pay such set off amount to the relevant Statutory Scheme.</p> <p>12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under this Agreement all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above</p>
<p>Para 1 of Annex D1</p>	<p>Para 1 of Annex D1 has been amended as follows:</p> <p>In this Annex D1: CSPA to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):</p>
<p>Para 1 of Annex D1 "CSPA Fair Deal Employee"</p>	<p>A new definition has been inserted as follows:</p> <p>CSPA Fair Deal Employee a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPA in accordance with the provisions of New Fair Deal;</p>
<p>Para 1 of Annex D1 "CSPA"</p>	<p>This definition has been amended as follows:</p> <p>CSPA the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; [Delete after 30 September 2018: the Designated Stakeholder Pension Scheme which is scheduled to close to new members in September 2018] and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.</p>

<p>Para 2 of Annex D1</p>	<p>Para 2 of Annex D1 has been amended as follows</p> <p>2.1 The Supplier shall procure that the Fair Deal Employees,In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPA Fair Deal Employee compulsorily transfers as a result of either the award of this Agreement or a Relevant Transfer, if not an employer which participates automatically in the CSPA, shall each secure a CSPA Admission Agreement to ensure that CSPA Fair Deal Employees or CSPA Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPA that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the. The Supplier and/or any of its Subcontractors shall procure that the CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.</p> <p>2.2 TheIf the Supplier undertakes that should it cease to participate in the and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with Paragraph 1 but the CSPA Admission Agreement is terminated during the term of this Agreement for whateverany reason at a time when it hasthe Supplier or Subcontractor still employs any CSPA Eligible Employees, that it will,the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a CSPA Eligible Employee with access tooffer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date thethose CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of Paragraph 11 of Part D.</p>
<p>Para 1 of Annex D2</p>	<p>Para 1 of Annex D2 has been amended as follows: In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):</p>
<p>Para 1 of Annex D2 “Direction Letter/Determination”</p>	<p>This definition has been amended as follows: Direction Letter/Determination an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Eligible Employees;</p>

<p>Para 1 of Annex D2 “NHS Broadly Comparable Employees”</p>	<p>A new definition has been inserted as follows:</p> <p>NHS Broadly Comparable Employees</p> <p>means each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <ul style="list-style-type: none"> (i) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or (j) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier), <p>but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.</p>
<p>Para 1 of Annex D2 “NHSPS Eligible Employees”</p>	<p>This definition has been amended as follows:</p> <p>NHSPS Eligible Employees</p> <p>each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <ul style="list-style-type: none"> (a) — their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or (b) — their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier), <p>and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).</p>

	<p>For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee; any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.</p>
<p>Para 1 of Annex D2 "NHSPS Fair Deal Employees"</p>	<p>A new definition has been inserted as follows:</p> <p>NHSPS Fair Deal Employees Means other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <ul style="list-style-type: none"> (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or (b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier), <p>and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).</p> <p>For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee;</p>
<p>Para 2 of Annex D2</p>	<p>Para 2 of Annex D2 has been amended as follows:</p> <p>2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Eligible Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, must by or as soon as reasonably practicable after the Relevant Transfer Date, shall each secure a Direction Letter/Determination to enable the NHSPS Eligible Fair Deal Employees to retain either continuous</p>

active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract,

- 2.2 Where it is not possible for the Supplier and ~~have a right~~/or any of its Subcontractors to ~~membership or eligibility of that scheme under the terms of the~~ secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Provider must ensure that:
- a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
 - b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer ~~by or as soon as reasonably practicable after the Relevant Transfer Date~~ a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its ~~Sub-Contracts~~Subcontractors (if any) ensures) that all of its NHSPS ~~Eligible~~Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS ~~Eligible~~Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS ~~Eligible~~Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS ~~Eligible~~Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Subcontractors (if any) will) ~~as soon as reasonably practicable and at its (or its Sub-contractor's) cost, obtain~~provide any ~~guarantee~~indemnity, bond or ~~indemnity that~~

	<p>may from time to time be guaranteed required by the Secretary of State for Health.</p>
Para 3 of Annex D2	Para 3 of Annex D2 is deleted.
Previous Para 4, Now Para 3 of Annex D2	<p>Para 4 of Annex D2 is renumbered Para 3 of Annex D2 AND has been amended as follows:</p> <p>From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS EligibleFair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.</p>
New Para 4 of Annex D2	<p>A new Para 4 of Annex D2 has been inserted as follows:</p> <p>4. NHS BROADLY COMPARABLE EMPLOYEES</p> <p>The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with Paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with Paragraph 5.2 below.</p>
Para 5 of Annex D2	<p>Para 5 of Annex D2 has been amended as follows:</p> <p>5. What the buyerBuyer will do if the Supplier breaches and/or cancels its pension obligations</p> <p>5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractors) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.</p> <p>5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of Paragraph 11 of Part D.</p> <p>.....</p>

Para 6.1 of Annex D2	<p>Para 6.1 of Annex D2 has been amended as follows:</p> <p>6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Eligible Employees with either membership of:</p> <p>6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or</p> <p>6.1.2 access to a Broadly Comparable pension scheme,</p> <p>the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Eligible Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.</p>
Para 7.1 of Annex D2	<p>Para 7.1 of Annex D2 has been amended as follows:</p> <p>7.1 The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Eligible Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.</p>
Para 7.2 of Annex D2	Para 7.2 of Annex D2 is deleted.
Para 8 of Annex D2	Para 8 of Annex D2 is deleted.
Para 1.1 of Annex D3	<p>Para 1.1 of Annex D2 has been amended as follows:</p> <p>1.1 In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):</p>
Para 1.1 of Annex D3 “2013 Regulations”	<p>A new definition has been inserted as follows:</p> <p>2013 Regulations the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);</p>
Para 1.1 of Annex D3 “[Initial Contribution Rate]”	<p>A new definition has been inserted as follows:</p> <p>[Initial Contribution Rate] [XX %] of pensionable pay (as defined in the 2013 Regulations);</p>
Para 1.1 of Annex D3 “LGPS Fair Deal Employees”	<p>A new definition has been inserted as follows:</p> <p>LGPS Fair Deal Employees any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension</p>

	<p>scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; and</p>
<p>Para 2 of Annex D3</p>	<p>Para 2 of Annex D3 has been amended as follows:</p> <p>2.1 WhereIn accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier employsand/or any of its Subcontractors to which the employment of any LGPS Eligible Employees fromFair Deal Employee compulsorily transfers as a result of either the award of this Agreement or a Relevant Transfer Date, the Supplier, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body and shall by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date. The LGPS Admission Agreement must ensure that all LGPS EligibleFair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under this Agreement.</p> <p>OPTION 1</p> <p>2.2 [Any LGPS Fair Deal Employees covered by that Agreement who:</p> <p>a) were active LGPS members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date areshall be admitted to the LGPS with effect on and from the Relevant Transfer Date. Any LGPS Eligible Employees who; and</p> <p>b) were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active LGPS members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date mustshall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.]</p> <p>OPTION 2</p> <p>[Any LGPS Fair Deal Employees whether:</p> <p>a) active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or</p> <p>b) eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date</p> <p>shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for</p>

	<p>the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]</p> <p>2.3 The Supplier shall providewill (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.</p> <p>2.4 The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.</p>
Para 3 of Annex D3	Para 3 of Annex D3 is deleted.
Para 4 of Annex D3	Para 4 of Annex D3 is deleted.
New Para 3 of Annex D3	<p>A new Para 3 of Annex D3 has been inserted as follows:</p> <p>3. BROADLY COMPARABLE SCHEME</p> <p>3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with Paragraph 2.1 because the Administering Authority will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of Paragraph 10 of Part D</p> <p>3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with Paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of this Agreement for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of Paragraph 11 of Part D.</p>
Previously Para 5, Now Para 4 of Annex D3	<p>Para 5 of Annex D3 is renumbered Para 4 of Annex D3 and amended as follows:</p> <p>4. Discretionary benefits Benefits</p> <p>4.1 Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall award benefits to (and procure that its Subcontractors shall) comply with its</p>

	<p>obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.</p>
<p>New Para 5 of Annex D3</p>	<p>A new Para 5 of Annex D3 has been inserted as follows:</p> <p>5. LGPS RISK SHARING</p> <p>5.1 Subject to Paragraphs 5.4 to 5.10, if at any time during the term of this Agreement the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the “Excess Amount”) shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.</p> <p>5.2 Subject to Paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of this Agreement, the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the “Refund Amount”) where:</p> <p>A) the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and</p> <p>B) the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.</p> <p>5.3 Subject to Paragraphs 5.4 to 5.10, where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “Exit Payment”), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.</p> <p>5.4 The Supplier and any Subcontractors shall at all times be responsible for the following costs:</p> <p>a) any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;</p>

	<p>b) any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;</p> <p>c) any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;</p> <p>d) any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;</p> <p>e) any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;</p> <p>f) any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);</p> <p>g) to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;</p> <p>h) any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Authority under Regulation 70 of the 2013 Regulations;</p> <p>i) the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or</p> <p>j) any interest payable under the 2013 Regulations or LGPS Administration Agreement.</p>
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- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with Paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Credit**”), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
- a) of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
 - b) of being informed by the Administering Authority of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under Paragraph 5.7 above, the Buyer shall either:
- a) notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
 - b) request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
 - c) request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with Paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the

	<p>Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.</p> <p>5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.</p> <p>5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.</p> <p>5.12 This Paragraph 5 shall survive termination of this Contract.</p>
Para 1.1 of Part E	<p>Para 1.1 of Part E has been amended as follows: it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.</p>
Para 1.5.14 of Part E	<p>Para 1.5.14 of Part E has been amended as follows: 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);</p>
Para 1.6 of Part E	<p>Para 1.6 of Part E has been amended as follows: 1.6 On or around each anniversary of the Effective Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include: </p>

<p>Para 2 of Part E</p>	<p>Para 2 of Part E has been amended as follows:</p> <p>2.1 A change in the identity of the supplier of the Services (or part of the Services), howsoever arising,The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee</p> <p>2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date including (without limit)and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal SchemesSchemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as defined in Part D: Pensions); and (ii) the Replacement Supplier and/or Replacement Subcontractor.</p> <p>2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:</p> <p style="padding-left: 40px;">a) any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee</p>
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	<p>whether occurring before, on or after the Service Transfer Date.</p> <p>b) the breach or non-observance by the Supplier or any Subcontractor occurring on or before the Service Transfer Date of:</p> <p>(i) any collective agreement applicable to the Transferring Supplier Employees; and/or</p> <p>(ii) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;</p> <p>c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;</p> <p>d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:</p> <p>(i) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and</p> <p>(ii) in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;</p> <p>e) a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);</p> <p>f) any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier</p>
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Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Agreement and/or the Employment Regulations; and

- g) any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, **Including any Employee Liabilities**

- a) arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
- b) arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

2.5 Subject to Paragraphs 2.7 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:

- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
- 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within ~~10~~15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor **or take such other reasonable steps as it considers appropriate**

to deal with the matter provided always that such steps are in compliance with Law;

2.5.3 if such offer of employment is accepted, or if the ~~Replacement~~ situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;

2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

...

2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 36 Months from the Service Transfer Date.

...

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

- a) the Supplier and/or any Subcontractor; and
- b) the Replacement Supplier and/or the Replacement Subcontractor.

...

3.2 ~~2.10~~2.11 Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of ~~any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.:~~

- a) any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.
- b) the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or
 - (ii) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;
- c) any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- d) any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat

	<p>their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;</p> <p>e) any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;</p> <p>f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:</p> <ul style="list-style-type: none"> (i) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and (ii) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; <p>g) a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and</p> <p>h) any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee</p>
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	<p>representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.</p> <p>...</p>
New Annex E1	<p>A new Annex E1 has been inserted as follows:</p> <p>ANNEX E1: LIST OF NOTIFIED SUBCONTRACTORS</p>
New Annex E2	<p>A new Annex E2 has been inserted as follows:</p> <p>ANNEX E2: STAFFING INFORMATION</p> <p>EMPLOYEE INFORMATION (ANONYMISED)</p> <p>Name of Transferor:</p> <p>Number of Employees in-scope to transfer:</p> <p>Completion notes</p> <ol style="list-style-type: none"> 1 <i>If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.</i> 2 <i>This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.</i> 3 <i>If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.</i> <div style="border: 1px solid black; background-color: yellow; padding: 5px; text-align: center; margin-top: 20px;"> <p>EMPLOYEE DETAILS & KEY TERMS</p> </div>

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

EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per	Mobility or flexibility clause in	Previously TUPE transferred to organisation? If so, please	Any collective agreements?

					week	contract?	specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	
		or temporary contract)						
		Emp No 1						
		Emp No 2						
		Emp No						

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

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

CONTRACTUAL PAY AND BENEFITS

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

	CONTRACTUAL PAY AND BENEFITS						
	Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commis	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)

				tion or overtime pay?)			
Emp No 1							
Emp No 2							
Emp No							
Emp No							

PENSIONS

Details	If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission	If the Employee is in the NHSPS, please provide details of the Direction Letter.	If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.	Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transfer	If Fair Deal, Best Value or other pension protection applied, which public sector employer did they

				Agreement.			red into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme) ?	originally transfer out of and when ?	
		Em p No 1							
		Em p No 2							
		Em p No							

	Em p No						
	OTHER						
	Detail Is	Security Check Level	Security Clearance Expiry date	Additional info or comments			
	Emp No 1						
	Emp No 2						
	Emp No						
	Emp No						

SCHEDULE 8 (Implementation Plan and Testing)

Throughout	<p>References to clauses in the Core Terms have been renumbered, and minor corrections have been made to the names of these where necessary.</p> <p>Incorrect within-Schedule references to “paragraph” have been changed to “Paragraph”.</p>
Para 6.1.2(a) of Part A	<p>Para 6.1.2(a) of Part A has been amended as follows:</p> <p>a) the Buyer is otherwisealso entitled to or does terminate this Contract pursuant to Clause 14.4 (When the Buyer can end the contract); or</p>
Para 7.5.7 of Part A	<p>Para 7.5.7 has been amended as follows:</p> <p>7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent providersupplier and the Supplier.]</p>

Table in Annex 1 of Part A	The table in Annex 1 of Part A has been amended as follows:						
	Milestone	Deliverable Items	Duration	Milestone Date	Buyer Responsibilities	Milestone Payments	Delay Payments
	[]	[]	[]	[]	[]	[]	[]
<p>The Milestones will be Achieved in accordance with this Part A B of this Schedule []: (Implementation Plan and Testing)</p> <p>For the purposes of Paragraph 6.1.2b 9.1.2 the Delay Period Limit shall be [insert number of days].</p>							

SCHEDULE 9 (Installation Works)	
Throughout	No changes

SCHEDULE 10 (Service Levels)	
Throughout	<p>References to clauses in the Core Terms have been renumbered, and minor corrections have been made to the names of these where necessary.</p> <p>Incorrect within-Schedule references to “paragraph” have been changed to “Paragraph”.</p>
Para 1.1 “Service Credits”	This definition has been moved from Schedule 10 to Schedule 1 as it is used in more than one Schedule.
Guidance and table in Annex A in Part A	<p>The Guidance and table in Annex A in Part A has been amended as follows:</p> <p><i>[Guidance Note: The following table and calculation are included by way of example only. Procurement-specific Service Levels and formulae, including Service Levels relating to Social Value (Social Value KPIs) (which should be established using the Model Award Criteria and Reporting Metrics set out in the procurement documentation and in the tenderer’s proposals) in line with PPN 06/20, should be introduced that reflect the particular requirements of the Procurement. For Social Value KPIs, where the successful bidder proposes specific commitments in its tender proposal which are in addition to the above, then such commitments will also be used to establish Social Value KPIs. Bespoke adjustments to the approach below can also be made as necessary. In line with the Sourcing Playbook, it is HMG’s intention to publish the top KPIs for the Government’s most</i></p>

important contracts. Where this publication requirement applies to this Contract, the Buyer must select at least three Service Levels (KPIs) which shall be publishable and must also select the single most important Social Value KPI, which shall also be publishable (four KPIs in total). Buyers can indicate which are publishable in the table below.

The Buyer should discuss Social Value with participants during pre-market engagement to inform the selection of relevant, proportionate and non-discriminatory questions and criteria from the Social Value Model, and to consider whether the market in question has a mature Social Value offering. Such Social Value KPIs will always comprise a combination of a deliverable and a numeric element, being specific, measurable and time-bound commitments, by which performance of that deliverable is to be measured

In the table below, Social Value KPIs should have an appropriate Service Credit level above 0% (zero percent) for markets which have a mature Social Value offering. When determining what are such appropriate levels, the Buyer should consider what is proportionate in the context of the subject matter of the contract and its value, what is feasible in the circumstances, whether they provide sufficient incentive without driving up cost. The Buyer should also consider whether Social Value goals are better served in each instance by tying Service Credits to the input cost of meeting the Social Value KPI or to the output benefit which meeting the Social Value KPI is expected to bring.

For less mature markets, the Buyer should consider setting the Service Credit level for Social Value KPIs at 0% (zero percent), as the Rectification Plan Process will be a more appropriate remedy in these circumstances than Service Credits.

The Buyer should ensure that the social value priorities to be delivered and how the Supplier will deliver these priorities are included in the Contract (for example in Schedule 2 (Specification) and Schedule 8 (Implementation Plan))

Service Levels					
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	Service Credit for each Service Period	Publishable KPI
[Accurate and timely billing of Buyer	Accuracy /Timeliness	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure	[Yes/No]
Access to Buyer support	Availability	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure	[Yes/No]
[Social Value KPI 1]	[]	[]	[]	[]	[Yes/No]

		[Social Value KPI 2]	[]	[]	[]	[]	[Yes/No]
		[Social Value KPI 3]	[]	[]	[]	[]	[Yes/No]
	See also the amendments to the Award Form, and the new definitions of Social Value , Social Value KPI , and Social Value Report , and Schedule 2, above and new Part C of Schedule 26 below.						

SCHEDULE 11 (Continuous Improvement)	
Throughout	No changes

SCHEDULE 12 (Benchmarking)	
Throughout	References to clauses in the Core Terms have been renumbered, where necessary.
Para 3.2.5	<p>Para 3.2.5 has been amended and renumbered as follows:</p> <p>3.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:</p> <ul style="list-style-type: none"> a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's benchmarker's professional judgment using: <ul style="list-style-type: none"> (A) information from other service providers to the Buyer; (B) survey information; (C) information from "in-house" providers to the Buyer to the extent that the benchmarker considers that they are valid comparators; (D) market intelligence; (E) the benchmarker's own data and experience;

	<p>(F) relevant published information; and</p> <p>(G) pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;</p> <p>b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;</p> <p>c) using the Equivalent Data, calculate the Upper Quartile;</p> <p>determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.</p>
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SCHEDULE 13 (Contract Management)

Throughout	Incorrect within-Schedule references to “paragraph” have been changed to “Paragraph”.
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SCHEDULE 14 (Business Continuity and Disaster Recovery)

Throughout	<p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>References to “Performance Indicators” or “Performance Indicators (PI’s)” have been removed (where “Service Levels” is listed immediately after) or changed to “Service Levels”.</p>
Para 1.1 “Disaster Recovery Deliverables”	This definition has been deleted as it is not used in the Contract.
Para 1.1 “Disaster Recovery System”	This definition has been deleted as it is not used in the Contract.
New Para 3.1.6(c)	<p>A new Para 3.1.6(c) has been inserted as follows, and (c) and (d) have been renumbered (d) and (e):</p> <p>(b) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;</p> <p>See also the New definitions of Supplier Group, Dependent Parent Undertakings, and Subsidiary Undertakings, above.</p>

Paragraph 4.3.2	<p>Paragraph 4.3.2 has been amended as follows:</p> <p>4.3.2 specify any applicable Performance Indicators quality standards and/or Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and</p>
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SCHEDULE 15 (Minimum Standards of Reliability)

Schedule 15	<p>This Schedule has been amended as follows:</p> <p>1.1 If this Contract has an anticipated contract value in excess of £20 million (excluding VAT) it shall not be awarded unless the Supplier can demonstrate that it meets the minimum standards of reliability as set out in the OJEU Find a Tender Service Notice ("Minimum Standards of Reliability") at the time of the proposed award of that the Contract.</p> <p>1.2 The Buyer shall assess the Supplier's compliance with the Minimum Standards of Reliability whenever it considers (in its absolute discretion) that it is appropriate to do so.</p> <p>1.3 In the event that the Supplier does not demonstrate that it meets the Minimum Standards of Reliability in an assessment carried out pursuant to Paragraph 1.2, the Buyer shall so notify the Supplier and the Buyer reserves the right to terminate its Contract for material Default under Clause 14.4 (When the Buyer can end this the contract).</p>
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SCHEDULE 16 (Security)

Throughout	<p>Incorrect within-Schedule references to "paragraph" have been changed to "Paragraph".</p> <p>References to "takes all reasonable steps" or "take all reasonable steps" have been changed to "uses all reasonable endeavours" or "use all reasonable endeavours".</p> <p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>The unnecessary words "without limitation" have been deleted throughout, where required.</p>
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<p>Para 1.1, Part A “Breach of Security”</p>	<p>This definition has been amended as follows:</p> <p>Breach of Security the occurrence of:</p> <ul style="list-style-type: none"> a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract, <p>in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 2.22.1;</p>
<p>Para 3.2.4 of Part A</p>	<p>Para 3.2.4 of Part A has been amended as follows:</p> <p>3.2.4 where specified by the Buyer in accordance with Paragraph 2.22.1 complies with the Security Policy and the ICT Policy.</p>
<p>Para 4.2.1(f) of Part A</p>	<p>Para 4.2.1(f) of Part A has been amended as follows:</p> <p>f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 2.1 2.2 the Security Policy; and</p>
<p>Para 5.3 of Part A</p>	<p>Para 5.3 of Part A has been amended as follows:</p> <p>In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 2.1 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.</p>
<p>Para 3.4.2 of Part B</p>	<p>Para 3.4.2 of Part B has been amended as follows:</p> <p>3.4.2 meet the relevant standards in ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC27002, in accordance with Paragraph 7;</p>

Para 3.4.3(i) of Part B	<p>Para 3.4.3(i) of Part B has been amended as follows:</p> <p>(i) complies with ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC27002, in accordance with Paragraph 7;</p>
Para 4.2.10 of Part B	<p>Para 4.2.10 of Part B has been amended as follows:</p> <p>4.2.10 be structured in accordance with ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and</p>
Para 7 of Part B	<p>Para 7 of Part B has been amended as follows:</p> <p>7.1 The Buyer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO/IEC 27001 (at least ISO/IEC 27001:2013) (a) ISO/IEC 27001:2013 or (b) ISO/IEC 27001:2017 and/or (c) the Security Policy where such compliance is required in accordance with Paragraph 3.4.3(d).</p> <p>7.2 If, on the basis of evidence provided by such security audits, it is the Buyer's reasonable opinion that compliance with the principles and practices of (a) ISO/IEC 27001 (at least ISO/IEC 27001:2013) ISO/IEC 27001:2013 or (b) ISO/IEC 27001:2017 and/or, where relevant, (c) the Security Policy are not being achieved by the Supplier, then the Buyer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Buyer shall have the right to obtain an independent audit against these standards in whole or in part.</p> <p>7.3 If, as a result of any such independent audit as described in Paragraph the Supplier is found to be non-compliant with the principles and practices of (a) ISO/IEC 27001 (at least ISO/IEC 27001:2013) ISO/IEC 27001:2013 or (b) ISO/IEC 27001:2017 and/or, where relevant, (c) the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Buyer in obtaining such audit.</p>

Previously SCHEDULE 17 (Clustering)

New SCHEDULE 17 (Service Recipients)

This Schedule has been amended as follows:

1. WHEN YOU SHOULD USE THIS SCHEDULE

- 1.1 This Schedule is required where ~~various Cluster Members~~ **Service Recipients** want to join with the Buyer to efficiently contract collectively under a single Contract rather than as separate individual buyers under separate contracts.

2. DEFINITIONS

- 2.1 ~~"Cluster Members"~~ **"Service Recipients"** means a person named as such in ~~the~~ Annex A to this Schedule which shall be incorporated into the Award Form.

3. ~~CLUSTER MEMBERS~~ **SERVICE RECIPIENTS** BENEFITS UNDER THE CONTRACT

- 3.1 The Buyer has entered into this Contract both for its own benefit and for the benefit of the ~~Cluster Members~~ **Service Recipients**.
- 3.2 The ~~Cluster Members~~ **Service Recipients** who are to benefit under the Contract are identified in Annex A to this Schedule which shall be included into the Award Form.
- 3.3 ~~Cluster Members~~ **Service Recipients** shall have all of the rights granted to the Buyer under ~~at~~ the Contract **as if they had been parties to the Contract themselves**. Accordingly, where the context requires in order to assure the ~~Cluster Members~~ **Service Recipients** rights and benefits under ~~at~~ the Contract, and unless the Buyer otherwise specifies, references to the Buyer in ~~at~~ the Contract (including those references to a Party which are intended to relate to the Buyer) shall be deemed to include a reference to the ~~Cluster Members~~ **Service Recipients**.
- 3.4 Each of the ~~Cluster Members~~ **Service Recipients** will be a third party beneficiary for the purposes of the CRTPA and may enforce the relevant provisions of ~~at~~ the Contract pursuant to CRTPA.
- 3.5 The Parties to ~~at~~ the Contract may in accordance with its provisions vary, terminate or rescind ~~that~~ the Contract or any part of it, without the consent of any ~~Cluster Member~~ **Service Recipient**.
- 3.6 The enforcement rights granted to ~~Cluster Members~~ **Service Recipients** under Paragraph ~~4.43.4~~ are subject to the following provisions:
- 3.6.1 the Buyer may enforce any provision of ~~at~~ the Contract on behalf of a ~~Cluster Member~~ **Service Recipient**;
- 3.6.2 any claim from a ~~Cluster Member~~ **Service Recipient** under the CRTPA to enforce ~~at~~ the Contract shall be brought by the Buyer if reasonably practicable for the Buyer and ~~Cluster Member~~ **Service Recipient** to do so;

- 3.6.3 the Buyer will ensure that Service Recipients comply with the Dispute Resolution Procedure in respect of any Disputes that involve a Service Recipient; and
- 3.6.4 the Supplier's limits and exclusions of liability in the Contract shall apply to any claim to enforce ~~the~~ Contract made by the Buyer on behalf of a ~~Cluster Member~~Service Recipient and to any claim to enforce ~~the~~ Contract made by a ~~Cluster Member~~Service Recipient acting on its own behalf.
- 3.7 Other terms and conditions applicable to the provision of the Deliverables to any Service Recipient are as follows:
 - 3.7.1 if a Service Recipient needs to comply with an obligation or responsibility of the Buyer to allow the Supplier to provide the Deliverables, the Buyer will remain responsible for this compliance, but compliance by the Service Recipient will be deemed to be compliance by the Buyer;
 - 3.7.2 to the extent that the Service Recipient receives the benefit of the Services, the term "Government Data" will be deemed to extend to any data of the Service Recipient;
 - 3.7.3 during the Contract Period, the Buyer and the Supplier may agree in writing to remove or add Service Recipients from the scope of this Contract and, as necessary, adjusting the Charges on an equitable basis, provided that such changes are in all cases compliant with regulation 72 of the Regulations.

[Guidance: Buyers should note that paragraph 3.7.3 does not give Buyers an automatic right to add Service Recipients – this ability is subject to Supplier agreement and also to regulation 72 of the Regulations.]

- 3.8 If the Buyer and Supplier agree to remove or add a Service Recipient pursuant to Paragraph 3.7.3:
 - 3.8.1 the Buyer may request that the Supplier provide Termination Assistance; and
 - 3.8.2 the Supplier will, if requested by the Buyer as a result of any UK Government reorganisation, provide the Services to any new UK Government entity designated by the Buyer.
- 3.9 Notwithstanding that ~~Cluster Members~~Service Recipients shall each receive the same Services from the Supplier the following adjustments will apply in relation to how the Contract will operate in relation to the Buyer and ~~Cluster Members~~Service Recipients:
 - 3.9.1 Services will be provided by the Supplier to each ~~Cluster Member~~Service Recipient and Buyer separately;

- 3.9.2 the Supplier's obligation in regards to reporting will be owed to each ~~Cluster Member~~Service Recipient and Buyer separately;
- 3.9.3 the Buyer and ~~Cluster Members~~Service Recipients shall be entitled to separate invoices in respect of the provision of Deliverables;
- 3.9.4 the separate invoices will correlate to the Deliverables provided to the respective Buyer and ~~Cluster Members~~Service Recipients;
- 3.9.5 the Charges to be paid for the Deliverables shall be calculated on a per ~~Cluster Member~~Service Recipient and Buyer basis and each ~~Cluster Member~~Service Recipient and the Buyer shall be responsible for paying their respective Charges;
- 3.9.6 the Service Levels and corresponding Service Credits will be calculated in respect of each ~~Cluster Member~~Service Recipient and Buyer, and they will be reported and deducted against Charges due by each respective ~~Cluster Member~~Service Recipient and Buyer; and
- 3.9.7 such further adjustments as the Buyer and each ~~Cluster Member~~Service Recipient may notify to the Supplier from time to time.

Annex A – ~~Cluster Members~~Service Recipients

The Deliverables shall also be provided for the benefit of the following ~~Cluster Members~~Service Recipients:

Name of Cluster Member Service Recipient	Services to be provided	Duration	Special Terms
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]

See also the amendments to the Award Form, above.

SCHEDULE 18 (Supply Chain Visibility)

<p>Para 1.1 “Unconnected Sub-contract”</p>	<p>A new definition has been added as follows: Unconnected Sub-contract any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017</p>
<p>Para 1.1 “Unconnected Sub-contractor”</p>	<p>A new definition has been added as follows: Unconnected Sub-contractor any third party with whom the Supplier enters into an Unconnected Sub-contract</p>
<p>Para 2.3</p>	<p>Para 2.3 has been amended as follows: 2.3The obligations on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Start Date.</p>
<p>New Para 4</p>	<p>A new Para 4 has been inserted as follows: 4 Visibility of Payment Practice 4.1 If this Contract has at the Start Date an anticipated contract value in excess of £5 million per annum (excluding VAT) averaged over the Contract Period and without prejudice to Clause 4.6, Clause 8.2.1(b), and Clause 8.2.2(b) the Supplier shall: (a) pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of: (i) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or (ii) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and (b) include within the Supply Chain Information Report a summary of its compliance with this Paragraph 4.4, such data to be certified every six months by a director of the Supplier as being accurate and not misleading. 4.2 If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall provide to the Buyer</p>

	<p>within [15] Working Days of submission of the latest Supply Chain Information Report an action plan (the “Action Plan”) for improvement. The Action Plan shall include, but not be limited to, the following:</p> <p>(a) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;</p> <p>(b) actions to address each of the causes set out in Sub-Paragraph (a); and</p> <p>(c) mechanism for and commitment to regular reporting on progress to the Supplier’s Board.</p> <p>4.3 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.</p> <p>4.4 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Solution (to the extent it is not already included).</p> <p>4.5 If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).</p> <p>See also Clause 4.6, Clause 8.2.1(b), and Clause 8.2.2(b) of the Core Terms, above.</p>		
<p>Template in Annex 1</p>	<p>The template in Annex 1 has been amended as follows:</p> <div data-bbox="363 1659 683 1749" data-label="Image"> </div> <p>Supply Chain Information Report templat</p> <p>SUPPLY CHAIN TRANSPARENCY INFORMATION TEMPLATE</p> <div data-bbox="461 1899 1469 1980" data-label="Table"> <table border="1"> <tr> <td data-bbox="461 1899 778 1980"></td> <td data-bbox="778 1899 1469 1980"> <p>Financial Year 20[]</p> </td> </tr> </table> </div>		<p>Financial Year 20[]</p>
	<p>Financial Year 20[]</p>		

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

SCHEDULE 19 (Cyber Essentials Scheme)	
Para 1 “Cyber Essentials Certificate”	<p>The definition has been amended as follows:</p> <p>Cyber Essentials Certificate</p> <p>Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework-Award Form</p>
Para 2.1	<p>Para 2.1 has been amended as follows:</p> <p>2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to [Guidance: add appropriate wording with respect to status of contract. All Paragraphs must be reviewed to ensure that the wording added is consistent with all other Paragraphs in the Schedule] the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of Deliverables under any the Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.</p>

SCHEDULE 20 (Processing Data)

Throughout	<p>The paragraphs have been renumbered in line with the other Schedules, including any within-Schedule references.</p> <p>Incorrect within-Schedule references to “Clause” or “paragraph” have been changed to “Paragraph”.</p> <p>References to “takes all reasonable steps” or “take all reasonable steps” have been changed to “uses all reasonable endeavours” or “use all reasonable endeavours”.</p> <p>References to “GDPR” have been changed to “UK GDPR”.</p> <p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>See also, various amendments and insertions in the Definitions Schedule, and Clause 18 above.</p>
Previous Para 1, Now Para 1.1	<p>Para 1 is renumbered Para 1.1 and amended as follows:</p> <p>1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:</p>
Previous Para 5(b), Now Para 2.4.2	<p>Para 5(b) is renumbered Para 2.4.2 and the cross reference in para 2.4.2 has been corrected. This has been amended as follows:</p> <p>2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:</p>
Previous Para 5(d), Now Para 2.4.4	<p>Para 5(d) is renumbered Para 2.4.4 and amended as follows:</p> <p>2.4.4 not transfer Personal Data outside of the EU/UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:</p> <ul style="list-style-type: none"> a) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37 UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the

	<p>International Data Transfer Agreement (the “IDTA”), or International Data Transfer Agreement Addendum to the European Commission’s SCCs (the “Addendum”), as published by the Information Commissioner’s Office from time to time, as well as any additional measures determined by the Controller;</p> <ul style="list-style-type: none"> c) the Data Subject has enforceable rights and effective legal remedies; d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
New Para 2.4.5	<p>A new Para 2.4.5 has been inserted in what was Para 5 as follows. Para 5(e) has also been renumbered Para 2.5.6:</p> <p>2.45. where the Personal Data is subject to EU GDPR, not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:</p> <ul style="list-style-type: none"> a) the transfer is in accordance with Article 45 of the EU GDPR; or b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission’s decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the non-transferring Party; c) the Data Subject has enforceable rights and effective legal remedies; d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and
Previous Para 8(e), Now Para 2.7.5	<p>Para 8(e) is renumbered Para 2.7.5 and amended as follows:</p> <p>2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner’s Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner’s Office or any other regulatory authority.</p>

<p>Previous Para 25(c), Now Para 3.10.3</p>	<p>Para 25(c) is renumbered Para 3.10.3 and amended as follows:</p> <p>3.10.3 work with the other Party to make any required notifications to the Information Commissioner’s Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and</p>						
<p>Preamble to Annex 1</p>	<p>The Preamble to Annex 1 has been numbered and has been amended as follows:</p> <p>1.1. This Schedule shall be completed by the Controller, who may take account of the view of the ProcessorsProcessor, however the final decision as to the content of this Schedule shall be with the Buyer at its absolute discretion.</p>						
<p>Table in Annex 1</p>	<p>The table in Annex 1 has been amended as follows:</p> <table border="1" data-bbox="448 786 1474 1509"> <tr> <td data-bbox="448 786 1007 1039"> <p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p> </td> <td data-bbox="1007 786 1474 1039"> <p>[INSERT] Describe how long the data will be retained for, how it be returned or destroyed]</p> </td> </tr> <tr> <td data-bbox="448 1039 1007 1182"> <p>Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract</p> </td> <td data-bbox="1007 1039 1474 1182"> <p>[Clearly identify each location]</p> </td> </tr> <tr> <td data-bbox="448 1182 1007 1509"> <p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach</p> </td> <td data-bbox="1007 1182 1474 1509"> <p>[Please be as specific as possible]</p> </td> </tr> </table>	<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>[INSERT] Describe how long the data will be retained for, how it be returned or destroyed]</p>	<p>Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract</p>	<p>[Clearly identify each location]</p>	<p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach</p>	<p>[Please be as specific as possible]</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>[INSERT] Describe how long the data will be retained for, how it be returned or destroyed]</p>						
<p>Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract</p>	<p>[Clearly identify each location]</p>						
<p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach</p>	<p>[Please be as specific as possible]</p>						
<p>Previous Para 2.1(d), Now Para 2.1.4 in Annex 2</p>	<p>Para 2.1(d) is renumbered Para 2.1.4 in Annex 2 and amended as follows:</p> <p>2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;</p>						

<p>New Para 2.1.11 in Annex 2</p>	<p>A new Para 2.1.11 has been inserted in what was Para 2.1 of Annex 2 as follows:</p> <p>2.1.11 where the Personal Data is subject to UK GDPR, not transfer such Personal Data outside of the UK unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:</p> <ul style="list-style-type: none"> a) the transfer is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 73; or b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the “IDTA”), or International Data Transfer Agreement Addendum to the European Commission’s SCCs (the “Addendum”), as published by the Information Commissioner’s Office from time to time, as well as any additional measures determined by the Controller; c) the Data Subject has enforceable rights and effective legal remedies; d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and
<p>New Para 2.1.12 in Annex 2</p>	<p>A new Para 2.1.12 has been inserted in what was Para 2.1 of Annex 2 as follows:</p> <p>2.1.12 where the Personal Data is subject to EU GDPR, not transfer such Personal Data outside of the EU unless the prior written consent of non-transferring Party has been obtained and the following conditions are fulfilled:</p> <ul style="list-style-type: none"> a) the transfer is in accordance with Article 45 of the EU GDPR; or b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual

	<p>Clauses in the European Commission’s decision 2021/914/EU as well as any additional measures;</p> <p>c) the Data Subject has enforceable rights and effective legal remedies;</p> <p>d) the transferring Party complies with its obligations under the EU GDPR by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and</p> <p>e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data.</p>
	<p>See also the amended and new definitions of e.g. Controller, Data Protection Officer, Data Subject, DPA 2018 EU GDPR (replacing “GDPR”), Independent Controller, Joint Control, Processing, Processor, Processor Personnel, UK GDPR (replacing “GDPR”), above.</p>

SCHEDULE 21 (Variation Form)	
Throughout	<p>References to clauses in the Core Terms have been renumbered, where necessary.</p> <p>See also Clause 28 of the Core Terms, above.</p>

SCHEDULE 22 (Insurance)	
New Guidance	<p>New Guidance has been added to the start of the Schedule as follows:</p> <p>[Guidance: For guidance on risk, liability and insurance generally, see paragraph 1.5 and Annex 1 of the MSC guidance]</p>
Para 1.2.4	<p>Para 1.2.4 has been amended as follows:</p> <p>1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.</p>
Para 7.2	<p>Para 7.2. has been amended as follows:</p> <p>7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of [£to be determined by the Buyer] 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy</p>

	<p>excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.</p> <p>[Guidance: The insurance claims notification threshold should normally represent a significant or material value claim in connection with the requirement or represent an amount that would provide comfort to the Buyer that it has knowledge of claims that might impact on the Buyer.]</p>
Annex (Required Insurances)	<p>The Annex (Required Insurances) has been amended as follows:</p> <ol style="list-style-type: none"> 1. The Supplier shall hold the following insurance cover from the Start Date in accordance with this Schedule: <ol style="list-style-type: none"> 1.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000); 1.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than ten million pounds (£10,000,000); and 1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000). <p style="text-align: center;">[Guidance: adjust the above]</p> <p style="text-align: center;">PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE</p> <ol style="list-style-type: none"> 1 Insured <ol style="list-style-type: none"> 1.1 The Supplier 2 Interest <ol style="list-style-type: none"> 2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental: <ol style="list-style-type: none"> (a) death or bodily injury to or sickness, illness or disease contracted by any person; and (b) loss of or damage to physical property; <p>happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.</p> 3 Limit of indemnity <ol style="list-style-type: none"> 3.1 Not less than £[to be determined by the Buyer] in respect of any one occurrence, the number of occurrences being unlimited

in any annual policy period, but £[to be determined by the Buyer] in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).

[Guidance: The Buyer should set the Limit of Indemnity by way of an insurable risk review (supported by the Buyers professional insurance adviser). The level specified in the limit of indemnity above should be predicated upon:

The risk profile represented by the Buyer requirement in question

Potential frequency and severity of claims and losses (not the value of the contract) relative to the risk exposure

Insurance market availability in prevailing insurance market conditions.

The wording on the limit of indemnity for third party public and products liability reflects what is available in UK insurance market conditions for this type of insurance only. While insurance is available in the UK on this basis, it may not be available in other parts of the world, in which case Suppliers may need to seek an alternative UK insurance policy on this basis.]

4 Territorial limits

[United Kingdom]

[Guidance: The Buyer should populate any additional territories relative to the service delivery. The Annex drafting reflects United Kingdom insurance market conditions and availability only. Where there is an overseas requirement consider obtaining professional insurance advice to set the appropriate requirement in the Annex]

5 Period of insurance

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

[Guidance: The Buyer should populate the period of insurance relative to the requirement in question. The period of insurance should reflect the period that the relevant insurable risk can materialise and take into account any contract specific issues such as phasing.]

6 Cover features and extensions

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

[Guidance: As part of the insurance review the Buyer should consider what additional cover features and extensions may be required to protect its interests (e.g. contractual liability extension and legal defence costs in addition to the limit of indemnity). The Buyer may need to seek professional subject matter insurance advice in this regard.]

7 Principal exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

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

7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.

7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.

7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.

7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

[Guidance: This list of exclusions represents insurance market wide exclusions for the third party public and products liability insurance. If something listed here is excluded and you wish it can be covered by an alternative insurance and include in PART C]

8 Maximum deductible threshold

8.1 Not to exceed £ **[Insert: figure on contract award based on the Supplier's acceptable response to the Invitation To Tender]** for

each and every third party property damage claim (personal injury claims to be paid in full).

PART B: UNITED KINGDOM COMPULSORY INSURANCES

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

PART C: ADDITIONAL INSURANCES

[Guidance: You may wish to consider including the following additional required insurances. The Buyer may need to seek professional subject matter insurance advice in this regard. Examples of additional insurance are:]

Professional Indemnity Insurance	Where the Buyer requirement includes a potential breach of professional duty by the Supplier in connection with professional advice and /or professional services to be maintained for 6 years after the End Date
Property Damage Insurance / Goods in Transit Insurance	Where the Buyer requirement necessitates primary perils insurance for relevant physical property (e.g. Buyer physical property in the care, custody and control of the Supplier in delivering the Contract).
Cyber Liability Insurance	Where the Buyer requirement includes specific cyber risk exposures.
Environmental Liability Insurance or Contractors Pollution Liability Insurance	Where the Buyer requirement includes exposure to significant pollution / contamination risks.

SCHEDULE 23 (Guarantee)

Para 2.1	<p>Para 2.1 has been amended as follows:</p> <p>2.1 Where a Buyer has notified the Supplier that the award of the Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of the Contract, as a condition for the award of thatthe Contract, the Supplier shall deliver to the Buyer:</p>
Para 2.2	<p>Para 2.2 has been amended as follows:</p> <p>2.2 Where a Buyer has procured a Guarantee from the Supplier under Paragraph 40 above, the Buyer may terminate the Contract for material Default where:</p>
Throughout Annex 1	<p>The unnecessary words “without limitation” have been deleted throughout Annex 1 of the Schedule, where required.</p>

SCHEDULE 24 (Financial Difficulties)	
Throughout	<p>Incorrect within-Schedule references to “Clause” have been changed to “Paragraph”.</p> <p>Within-Schedule references have been renumbered, where necessary.</p>
New Guidance	<p>A new guidance section has been added to the start of the Schedule as follows:</p> <p><i>[Guidance: This template Schedule provides the user with the option of using Credit Ratings and/or Credit Scores and/or Financial Indicators for the purposes of the Financial Distress Provisions. Please consult the Playbook guidance about Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers. Users may use any combination of these indicators to suit their own requirements and may delete or amend as required. Users should ensure that the drafting of any Financial Indicators aligns with the financial standing criteria used during the selection stage of the procurement]</i></p>
Para 1	<p>Para 1 has been amended as follows:</p> <p>1. Definitions</p> <p>1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):</p> <p>“Applicable Financial Indicators” means the financial indicators from Part C of Annex 2 which are to apply to the Monitored Suppliers as set out in Part B of Annex 3;</p>

	<p>"Credit Rating Threshold"</p> <p>"Credit Reference Agencies"</p> <p>"Credit Score Notification Trigger"</p> <p>"Credit Score Notification Trigger Event"</p> <p>"Credit Score Threshold"</p> <p>"Financial Distress Event"</p>	<p>the minimum credit rating level for the Monitored Company each entity in the FDE Group as set out in Part A of Annex 2; and</p> <p>the credit reference agencies listed in Part B of Annex 1;</p> <p>the minimum size of any downgrade in a credit score, set out in Part B of Annex 2, which triggers a Credit Score Notification Trigger Event;</p> <p>any downgrade of a credit score which is equal to or greater than the Credit Score Notification Trigger;</p> <p>the minimum credit score level for each entity in the FDE Group as set out in Part B of Annex 2;</p> <p>the occurrence or one or more of the following events:</p> <ul style="list-style-type: none"> a) — the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold; b) — the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects; c) — there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party; d) — Monitored Company committing a material breach of covenant to its lenders; e) — a Key Subcontractor (where applicable) notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; or f) — any of the following: <ul style="list-style-type: none"> i) — commencement of any litigation against the Monitored Company with respect to financial
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	<p style="text-align: right;">indebtedness or obligations under a contract;</p> <p style="text-align: right;">ii) non-payment by the Monitored Company of any financial indebtedness;</p> <p style="text-align: right;">iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or</p> <p style="text-align: right;">iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company;</p> <p style="text-align: right;">in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Deliverables in accordance with any Contract;</p> <p>"Financial Distress Service Continuity Plan"</p> <p>a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract in the event that a Financial Distress Event occurs. This plan should include what the Buyer would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity;</p> <p>"Financial Indicators"</p> <p>in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Part C of Annex 2; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;</p> <p>"Financial Target Thresholds"</p> <p>means the target thresholds for each of the Financial Indicators set out at Part C of Annex 2;</p>
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	<p>“Primary Metric” [credit rating pursuant to Paragraph 4.4]/[credit score pursuant to Paragraph 4.3]/[financial indicators pursuant to Paragraph 5.4]</p> <p><i>[Guidance: The Primary Metric is used in Paragraph 8 as the means of measuring whether the Supplier has resolved the Financial Distress Event. If the Financial Distress Event is resolved by reference to the selected Primary Metric then the Supplier is entitled to relief under Paragraph 8 whether or not the other metrics still show continuing Financial Distress Events.]</i></p> <p>"Monitored Company Supplier" those entities specified in Part B of Annex 3 Supplier [the Guarantor or any Key Subcontractor]; and</p> <p>"Rating Agencies" the rating agencies listed in Part A of Annex 1.</p> <p>Note that the definition of Financial Distress Event has been moved to Schedule 1, above, and amended. The definition of Rating Agency in Schedule 1 above, has been deleted.</p>
Para 2.1	<p>Para 2.1 has been amended as follows:</p> <p>2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies FDE Group and the consequences of a change to that financial standing.</p>
Para 3	<p>Para 3 has been amended as follows:</p> <p>3. What happens when your credit rating changes Credit Ratings</p> <p>3.1 The Supplier warrants and represents to the Buyer that as at the Start Date the long term credit ratings issued for each entity in the FDE Group the Monitored Companies by each of the Rating Agencies are as set out in Part A of Annex 2.</p> <p>3.2 The Supplier shall:</p> <p>3.2.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies; and</p> <p>3.2.2 promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the</p>

	<p>credit rating issued by any Rating Agency for a Monitored Company any entity in the FDE Group.</p> <p>3.3 If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Supplier shall ensure that the Monitored Company's auditors thereafter provide the Buyer within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by the Buyer (such requests not to exceed 4 in any Contract Year) with written calculations of Buyer Guidance: Buyer to consider what provisions to make here the quick ratio for the Monitored Company as at the end of each Contract Year or such other date as may be requested by the Buyer. For these purposes the "quick ratio" on any date means:</p> $\frac{A + B + C}{D}$ <p>where:</p> <ul style="list-style-type: none"> A is the value at the relevant date of all cash in hand and a bank of the Monitored Company; B is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices the Working Day preceding the relevant date; C is the value at the relevant date of all account receivable the Monitored Company; and D is the value at the relevant date of the current liabilities of Monitored Company. <p>3.4 The Supplier shall:</p> <ul style="list-style-type: none"> regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and <p>4.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit rating is the Primary Metric, the credit rating of the Monitored Companyan FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have given a credit rating level for that FDE Group entity which is rated the Monitored Company at or below the applicable Credit Rating Threshold.</p>
New Para 4 & 5	<p>New Para 4 and Para 5 have been inserted as follows:</p> <p>4. Credit Scores</p> <p>4.1 The Supplier warrants and represents to the Buyer that as at the Start Date the credit scores issued for each entity in the FDE</p>

Group by each of the Credit Reference Agencies are as set out in Part B of Annex 2.

4.2 The Supplier shall:

4.2.1 regularly monitor the credit scores of each entity in the FDE Group with the Credit Reference Agencies; and

4.2.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any Credit Score Notification Trigger Event for any entity in the FDE Group (and in any event within five (5) Working Days).

4.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit score is the Primary Metric, the credit score of an FDE Group entity shall be deemed to have dropped below the applicable Credit Score Threshold if any of the Credit Reference Agencies have given a credit score for that FDE Group entity which is below the applicable Credit Score Threshold.

5. Financial Indicators

[Guidance: The Financial Indicators set out in the table at Part C of Annex 2 are examples of the types of Financial Indicators that you may wish to use in respect of the Supplier's financial standing. These should be aligned with any financial standing criteria used at the selection stage of the procurement and you may wish to delete or insert different indicators as appropriate. Financial Indicators may be restricted to specific key indicators rather than including all of the criteria used at the selection stage]

5.1 The Supplier shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Part C of Annex 2 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date

5.2 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: Standard Financial Ratios of *Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers – May 2021* (as amended, supplemented or replaced from time to time) which as at the Start Date can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987132/Assessing_and_monitorin

[g_the_economic_and_financial_standing_of_suppliers_guidance_note_May_2021.pdf](#)

- 5.3 Each report submitted by the Supplier pursuant to Paragraph 5.1 shall:
- 5.3.1 be a single report with separate sections for each of the FDE Group entities;
 - 5.3.2 contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
 - 5.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes; **[and]**
 - 5.3.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable **[.]/[; and]**
 - 5.3.5 **include a history of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance.]**
- 5.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if financial indicators are the Primary Metric, the Financial Indicator of an FDE Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:
- 5.4.1 a report submitted by the Supplier pursuant to Paragraph 5.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any **[one]** of the Financial Indicators set out in Part C of Annex 2 of this Schedule;
 - 5.4.2 a report submitted by the Supplier pursuant to Paragraph 5.1 does not comply with the requirements set out in Paragraph 5.3; or
 - 5.4.3 the Supplier does not deliver a report pursuant to Paragraph 5.1 in accordance with the applicable monitoring and reporting frequency.

Previous Para 4,
now Para 6

Para 4 has been renumbered as Para 6 and has been amended as follows:

6. What happens if there is a financial distress event

6.1 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer 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 Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

6.2 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 6.4 to 0.

[Guidance: ~~delete~~ replace this clause Paragraph 6.3 with "NOT USED" if there are no Key Subcontractors or the Key Subcontractors are not Monitored CompanSuppliers]

6.3 [In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 6.4 without first giving the Supplier ten (10) Working Days to:

6.3.1 rectify such late or non-payment; or

6.3.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.]

6.4 The Supplier shall (and shall procure that ~~the other Monitored Companies~~ each Additional FDE Group Member shall):

6.4.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of the Contract and delivery of the Deliverables in accordance the Contract; and

6.4.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 6.4.1) that the Financial Distress Event could impact on the continued

performance of the Contract and delivery of the Deliverables in accordance with the Contract:

- a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event);
- b) use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Buyer; and
- c) provide such financial information relating to ~~the Monitored Company~~ FDE Group entity as the Buyer may reasonably require.

6.5 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:

6.5.1 Approved;

6.5.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been Approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or

6.5.3 finally rejected by the Buyer ~~or referred to the Dispute Resolution Procedure.~~

~~If the Buyer considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.~~

	<p>6.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:</p> <p>6.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance the Contract and delivery of the Deliverables in accordance with the Contract;</p> <p>6.6.2 provide a written report of the results of each review and assessment carried out under Paragraph 6.6.1 to the Buyer;</p> <p>6.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 6.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 6.5.4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and</p> <p>6.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).</p> <p>6.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 6.6.</p>
<p>Previous Para 6, now Para 7</p>	<p>Para 6 has been renumbered as Para 7 and has been amended as follows:</p> <p>7. When the Buyer can terminate for financial distress</p> <p>7.1 The Buyer shall be entitled to terminate this Contract for material Default if:</p> <p>7.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 6.1;</p> <p>7.1.2 the Supplier fails to comply with any part of Paragraph 6.4;</p> <p>7.1.3 subject to Paragraph 7.2, the Buyer and the Supplier fail to agree finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 6.5.3 6.4 to 0;</p>

	<p>7.1.4 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to Paragraph 6.5.2;</p> <p>7.1.5 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to Paragraph 6.5.2; and/or</p> <p>7.1.6 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.6.4.</p> <p>7.2 A material Default may only occur under Paragraph 7.1.2 after the expiry of the first five (5) Working Days period for the Supplier to submit a revised draft of the first draft of the Financial Distress Service Continuity Plan starting on and from the date on which the Buyer first notified the Supplier that Supplier must submit a revised draft of the first draft Financial Distress Service Continuity Plan.</p>
Annex 1	<p>Annex 1 has been amended as follows:</p> <p>ANNEX 1: RATING AGENCIES AND CREDIT REFERENCE AGENCIES</p> <p>Part A: Rating Agencies</p> <p>[Rating Agency 1]</p> <p>[Rating Agency 2]</p> <p>Part B: Credit Reference Agencies</p> <p>[Credit Reference Agency 1]</p> <p>[Credit Reference Agency 2]</p>
Annex 2	<p>Annex 2 has been amended as follows:</p> <p>ANNEX 2: CREDIT RATINGS, CREDIT SCORES AND CREDIT RATINGS & CREDIT RATING THRESHOLDS FINANCIAL INDICATORS</p>

Part 4A: ~~Current~~ Credit Rating

[Guidance: Subsidiary entities are unlikely to have a credit rating. The credit rating is most likely to be awarded to the ultimate parent company of a group. For the credit rating provisions to apply, the entity in the supplier's group which has a credit rating should be included as a Monitored Supplier if it is not the Guarantor.]

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier	[D&B Threshold]	
Guarantor		
[Key Subcontractor]		
[Monitored Supplier]		

Part B: Credit Score

Entity	Credit score	Credit Score Notification Trigger	Credit Score Threshold
Supplier			
Guarantor			
[Key Subcontractor]			
[Monitored Supplier]			

Part C: Financial Indicators

Financial Indicator	Calculation ¹	Financial Target Threshold :	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 5.1 Error! Reference source not found.]
<p>1</p> <p>[Operating Margin]</p> <p>OR</p> <p>[The higher of (a) the Operating Margin for the most recent 12 month period and (b) the average Operating Margin for the last two 12 month periods]</p>	<p>[Operating Margin = Operating Profit / Revenue]</p>	<p>[> [X%]]</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]</p>
<p>2</p> <p>[Free Cash Flow to Net Debt Ratio]</p> <p>OR</p> <p>[Net Debt to EBITDA Ratio]</p>	<p>[Free Cash Flow to Net Debt Ratio = Free Cash Flow / Net Debt]</p> <p>OR</p> <p>[Net Debt to EBITDA ratio = Net Debt / EBITDA]</p>	<p>[> [X%]]</p> <p>OR</p> <p>[< [X]] times</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon [Free Cash Flow / EBITDA] for the 12 months ending on, and Net Debt at, the relevant [accounting reference date / half year end]</p>

		3 [Net Debt + Net Pension Deficit to EBITDA ratio]	[Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA]	[< [X]] times	Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date
		4 [Net Interest Paid Cover]	[Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid]	[> [X]] times	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]
		5 [Acid Ratio]	[Acid Ratio = (Current Assets – Inventories) / Current Liabilities]	[> [X]] times	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]
		6 [Net Asset value]	[Net Asset Value = Net Assets]	[> £0]	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]

		7 [Group Exposure Ratio]	[Group Exposure / Gross Assets]	[< [X]]%	Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures at the relevant accounting reference date
		Financial Target 8 [etc.]	[etc.]	[etc.]	[etc.]

Key: ¹ – See Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

New Annex 3	<p>A new Annex 3 has been inserted as follows:</p> <h2 style="text-align: center;">ANNEX 3 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED SUPPLIERS</h2> <p>Part A: Additional FDE Group Members</p> <p>[Guidance: List the entities that the Buyer wants to include in the FDE Group]</p> <ol style="list-style-type: none"> 1. [[Guarantor] 2. [Key-Subcontractors]; and 3. [Monitored Suppliers]; <p>Part B: Monitored Suppliers</p> <p>[Guidance: Insert details of any other entities which the Supplier is required to monitor against the Financial Indicators. These are in addition to the Supplier’s monitoring of itself, the Guarantor and the Key Subcontractors. Not all the Financial Indicators may be applicable to a Monitored Supplier, so indicate which of those are to apply in the table below]</p>				
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		Entity Name	Company Number	Applicable Financial Indicators (these are the Financial Indicators from the table in Part C of Annex 2 which are to apply to the Monitored Suppliers)

See also the definition of **FDE Group** and **Additional FDE Group Member**, above.

SCHEDULE 25 (Rectification Plan)	
Throughout	<p>“Default” has been amended to “Notifiable Default” throughout.</p> <p>See also Clause 11 and Clause 12 of the Core Terms, above.</p>

<p>Previously SCHEDULE 26 (Corporate Social Responsibility)</p> <p>New SCHEDULE 26 (Sustainability)</p>	
New Guidance & Definitions sections	<p>New guidance and definitions sections are added to the start of the Schedule as follows:</p> <p><i>[Guidance: Part A should always be included, as it incorporates legislative requirements and Government policy on procurement; Part B is optional and Buyers should consider whether they wish to include any of the options. See Part B for further details. Part C</i></p>

	<p><i>should be included if Buyers have <u>not</u> included Schedule 10 (Service Levels) in the Contract.</i></p> <p>Definitions</p> <p>[“Modern Slavery Assessment Tool” means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/n</p> <p>[“Supply Chain Map” means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least:</p> <ul style="list-style-type: none"> (c) the name, registered office and company registration number of each entity in the supply chain; (d) the function of each entity in the supply chain; and (e) the location of any premises at which an entity in the supply chain carries out a function in the supply chain;] <p>“Waste Hierarchy” means prioritisation of waste management in the following order of preference as set out in the Waste Management (England and Wales) Regulation 2011:</p> <ul style="list-style-type: none"> (a) Prevention; (b) Preparing for re-use; (c) Recycling; (d) Other Recovery; and (e) Disposal.
Previously Para 2, Now Para 1	<p>A new Part A has been added. In Part A, Para 2 has been renumbered as Para 1 and has been amended as follows:</p> <p>Part A</p> <p>1. Equality and AccessibilityPublic Sector Equality Duty</p> <p>1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the each Contract in a way that seeks to:</p> <ul style="list-style-type: none"> 1.1.1. eliminate discrimination, harassment or victimisation of any kind and any other conduct prohibited by the Equality Act 2010; and

	<p>1.1.2. advance:</p> <p>1.1.2.1. equality of opportunity; and</p> <p>1.1.2.2. good relations,</p> <p>between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.</p>
New Para 2	<p>A new Para 2 has been inserted in new Part A as follows:</p> <p>2. Employment Law</p> <p>2.1 The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.</p> <p>See also previous Para 4 and Para 5 of this Schedule below.</p>
Para 3	<p>Para 3 (in new Part A) has been amended as follows:</p> <p>3. Modern Slavery Child Labour and Inhumane Treatment</p> <p>"Modern Slavery Helpline" means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at https://www.modernslaveryhelpline.org/report or by telephone on 08000 121 700.</p> <p>3.1. The Supplier:</p> <p>3.1.1. shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;</p> <p>3.1.2. shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer employer and shall be free to leave their employer after reasonable notice;</p> <p>3.1.3. warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;</p> <p>3.1.4. warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences offences anywhere around the world;</p> <p>3.1.5. shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of</p>

	<p>slavery or human trafficking offenses offences anywhere around the world;</p> <p>3.1.6. shall have and maintain throughout the term Term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;</p> <p>3.1.7. shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;</p> <p>3.1.8. shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph 3;</p> <p>[Guidance - a statement under section 54 of the Modern Slavery Act would be sufficient for the required 'annual slavery and human trafficking report required by Paragraph 3.18]</p> <p>3.1.9. shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;</p> <p>3.1.10. shall not use or allow child or slave labour to be used by its Subcontractors; and</p> <p>3.1.11. shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.</p>
Previous Para 4 and Para 5	Previous Para 4 (Income Security) and Para 5 (Working Hours) have been deleted, and replaced with new Para 2, above.
Previous Para 6, now Para 4	<p>Previous Para 6 (Sustainability) has been replaced with new Para 5 (Environmental Requirements) in new Part A, and been amended as follows:</p> <p>4. Sustainability Environmental Requirements</p> <p>5.1. The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.</p>

	<p>5.2. In performing its obligations under the Contract, the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Buyer:</p> <p>5.2.1. prioritise waste management in accordance with the Waste Hierarchy as set out in Law;</p> <p>5.2.2. be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and</p> <p>5.2.3. ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.</p> <p>5.3. In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.</p> <p>5.4. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.</p> <p>5.5. The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <i>https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs</i>.</p>
<p>Previous Para 1, now Para 5</p>	<p>Previous Para 1 (What we expect from our suppliers) has been renumbered and renamed new Para 5 (Supplier Code of Conduct), and been amended 3 (in new Part A) as follows:</p> <p>6. What we expect from our suppliers Supplier Code of Conduct</p> <p>6.1. In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:</p>

	<p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf</p> <p>In addition to the obligations set out in Part A of this Schedule, The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.</p>
New Para 6	<p>A new Para 6 has been inserted as follows:</p> <p>6. Reporting</p> <p>The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-6 of this Part A above within fourteen (14) days of such request, [provided that such requests are limited to [two] per requirement per Contract Year].</p>
New Part B	<p>A new Part B has been added as follows:</p> <p>Part B</p> <p><i>[Guidance - All paragraphs and sub-paragraphs in Part B are optional. Buyers will want to select and amend those requirements which are appropriate for their Contract, ensuring that these are relevant and proportional to the subject matter of the Contract. Buyers may want to consider using some or all of these paragraphs when there are key sustainability benefits or risks that need to be managed and/or for higher value/larger Suppliers and/or Contracts. Buyers should also note that some obligations, such as compliance with the Buyer's sustainability requirements, for example net zero commitments or EDI, will require the Buyer to provide the requirements to the Supplier]</i></p> <p>1. Equality, Diversity and Inclusion – Further Requirements</p> <p>1.1. [In delivering the Deliverables, the Supplier will comply with the Buyer's equality, diversity and inclusion requirements, to be provided to the Supplier by the Buyer.]</p> <p>1.2. [The Supplier shall ensure that it fulfils its obligations under the Contract in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.]</p> <p>2. Environmental – Further Requirements</p> <p>2.1. [The Supplier must have a documented management system and controls in place to manage the environmental impacts of delivering the Deliverables.]</p>

	<p>2.2. [The Supplier shall ensure that any Deliverables are designed, sourced and delivered in a manner which is environmentally and socially responsible.]</p> <p>2.3. [In delivering the Deliverables, the Supplier must comply with the Buyer's sustainability requirements, to be provided to the Supplier by the Buyer.]</p> <p>2.4. [The Supplier warrants that it has obtained relevant Environment Management System (EMS) certified to ISO 14001 or an equivalent certification from a UKAS accredited body and shall comply with and maintain certification requirements throughout the Term.]</p> <p>2.5. [In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer:</p> <p>2.5.1. [avoid consumable single use items (including packaging) unless otherwise agreed with the Buyer, and unless the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Deliverables;]</p> <p>2.5.2. [demonstrate that the whole life cycle impacts (including end of use) associated with the Deliverables that extend beyond direct operations into that of the supply chain have been considered and reduced];</p> <p>2.5.3. [minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using re-use and closed loop systems];</p> <p>2.5.4. [demonstrate protection of the environment including understanding and reduction of biosecurity risks (which include risks to plant and tree health from harmful pests and diseases), and reducing and eliminating hazardous/harmful substances to the environment and preventing pollution];</p> <p>2.5.5. [enhance the natural environment and connecting communities with the environment];</p> <p>2.5.6. [achieve continuous improvement in environmental (and social) performance]and</p> <p>2.5.7. [demonstrate to the Buyer that it has an environmental management system in place that is at least equivalent to the standards required to be certified to ISO 14001].]</p> <p>2.6. [The Supplier shall inform the Buyer within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked.]</p> <p>2.7. [Guidance: Insert any other environmental requirement the Buyer wishes to add, e.g. those in line with the Government Greening Commitments].</p>
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3. Modern Slavery– Further Requirements

[Guidance - Paragraphs 3.1 to 3.8 are intended for use in medium and high risk contracts. For guidance on classifying contracts as medium or high risk, please see section 3 of the Modern Slavery Guidance attached to PPN 05/19 (Modern Slavery). Buyers should consider which requirements, including any additional requirements, are appropriate for their Contract.]

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

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

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

3.3. For the purposes of an audit carried out pursuant to limb (l) of the definition of “Audit”, in addition to any other rights under the Contract, the Buyer may instruct the Supplier to carry out such an audit of any Subcontractor by an independent third party and, if so instructed, the Supplier shall deliver a report to the Buyer within ninety (90) days of such instruction.]

3.4. [If the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, the Supplier shall comply with any request of the Buyer to submit a remedial action plan which follows the form set out in Annex D of the guidance *Tackling Modern Slavery in Government Supply Chains*, which can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830150/September_2019_Modern_Slavery_Guidance.pdf

and such remedial action plan shall be deemed to be a Rectification Plan.]

3.5. [The Supplier shall comply with any request by the Buyer to provide a Supply Chain Map within fourteen (14) days of such request.]

3.6. [The Supplier shall comply with any request by the Buyer to provide a copy of any reports of any Subcontractor regarding any or all of workforce conditions, working or employment practices and recruitment practices within fourteen (14) days of such request.]

3.7. [The Supplier shall carry out due diligence to ensure workers in its business and its supply chains are not paying illegal or exploitative recruitment fees to secure employment, and where these fees are uncovered shall ensure that workers are remedied.]

3.8. [The Supplier shall report the discovery or suspicion of any slavery, forced labour, child labour, involuntary prison labour or labour rights abuses in its operations and supply chains to the Buyer and relevant national or local law enforcement agencies.]

4. Further Reporting Requirements

4.1. [The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs [1 and 2] of this Part B above within [thirty (30)] days of such request, [provided that such requests are limited to [two] per requirement per Contract Year].

4.2. [The Supplier shall complete the reports in Table A of this Part B in relation to its provision of the Deliverables under this Contract and provide these to the Buyer on the date and frequency outlined in Table A of this Part B].

Table A

[Guidance - All reports and the content of these reports in Table A are optional. Buyers will want to select and amend those reports and requirements which are appropriate for their Contract, ensuring that these are relevant and proportional to the subject matter of the Contract and do not create unnecessary burdens upon the Supplier.]

Sustainability Report Name	Content of Report	Frequency of Report
[Sustainability - General]	[As proportionate and relevant to the Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Deliverables of climate change, including mitigation, adaptation and continuity plans employed by the	[On the anniversary of the Effective Date]

		Supplier in response to those risks].	
	[Waste created]	[By type of material the weight of waste categories by each means of disposal in the Waste Hierarchy with separate figures for disposal by incineration and landfill.]	[Before contract award and on the anniversary of the Effective Date.]
	[Waste permits]	[Copies of relevant permits and exemptions for waste, handling, storage and disposal.]	[Before the Effective Date, on the anniversary of the Effective Date and within ten (10) Working Days of there is any change or renewal to license or exemption to carry, store or dispose waste]
	[Greenhouse Gas Emissions]	[Detail the Scope 1 and Scope 2 GHG emissions associated with the delivery of the contract. Scope 3 emissions to be reported as required (Optional) Emissions reporting should be in accordance with established best practice and internationally accepted standards. Greenhouse gas reporting from emissions sources (Scope 1, Scope 2 and Scope 3), and specific activities as requested by the	[On the anniversary of the Effective Date]

		Buyer. This may include activities such as transportation, energy use and waste disposal.]	
	[Water Use]	[Volume in metres cubed.]	[On the anniversary of the Effective Date]
	[Other]	[]	[]

A new Part C has been added as follows:

Part C

[Guidance - include the following section if you have not included Schedule 10 (Service Levels) in the Contract. If Schedule 10 has been included, the requirement for the Buyer to establish, track, and publish Social Value KPIs in line with PPN 06/20 will be addressed in that section, otherwise it should be addressed by including the paragraphs below.]

1. Social Value

1.1 The Supplier shall provide a Social Value Report to the Buyer as outlined in Table A.

Table A: Social Value Report

Required Detail	Frequency
A high-level summary of the Supplier's performance against the Social Value priorities over the relevant period	[Quarterly]
Performance by the Supplier against each of the Social Value KPIs set out at Table B over the relevant period	[Quarterly]
[Insert any other requirements]	

Table B: Social Value KPIs

[Guidance – use the Model Award Criteria and Reporting Metrics set out in the procurement documentation and in the tenderer's proposals to establish Social Value KPIs in line with PPN 06/20, and include these below. Where the successful bidder proposes specific commitments in its tender proposal which are in addition

New Part C

to the above, then such commitments will also be used to establish Social Value KPIs.

The Buyer should discuss Social Value with participants during pre-market engagement to inform the selection of relevant, proportionate and non-discriminatory questions and criteria from the Social Value Model, and to consider whether the market in question has a mature Social Value offering. Such Social Value KPIs will always comprise a combination of a deliverable and a numeric element, being specific, measurable and time-bound commitments, by which performance of that deliverable is to be measured.

The Buyer should ensure that the social value priorities to be delivered and how the Supplier will deliver these priorities are included in the Contract (for example in Schedule 2 (Specification) and Schedule 8 (Implementation Plan))

No.	Social Value Title	Description of Deliverable	Target	Frequency of Measurement	Publishable Performance Information <i>[Guidance: It is HMG's intention to publish the top Social Value KPI for the Government's most important contracts. Where this publication requirement applies to this Contract, the Authority may use the below to select the single most important Social Value KPI, which may be publishable]</i>
Social Value KPI1	[e.g. Reducing the disability employment gap]	[e.g. Number of disabled people in the contract workforce]	[e.g. 2%]	[Quarterly]	[YES/NO]

		Social Value KPI2					[YES/NO]
		Social Value KPI3					[YES/NO]
		See also Clause 16.4 of the Core Terms, and the amendments to the Award Form, above. For Part B – see also the amendments to Schedule 1, above. For Part C – see also the amendments to Schedules 2 and 10 and the Award Form, above.					

SCHEDULE 27 (Key Subcontractors)

Throughout	References to clauses in the Core Terms or other Schedules have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.
New Para 1.5.8	<p>A new para 1.5.8 has been added as follows:</p> <p>1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).</p> <p>See also Clause 13 of the Core Terms.</p>
New Para 1.6	<p>A new para 1.6 has been added as follows:</p> <p>1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.</p>

SCHEDULE 28 (ICT Services)

Throughout	<p>Incorrect within-Schedule references to “paragraph” have been changed to “Paragraph”, and []s have been inserted around some of these references to reflect the different drafting options</p> <p>References to clauses in the Core Terms have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.</p>
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Para 9 has been amended as follows:

9. Intellectual Property Rights in ICT

[Guidance note: this paragraph of Schedule 28 contains different ownership options for IPR. Please refer to the Award Form for more detailed guidance, but depending on which of the five IPR ownership Options is chosen, this paragraph should be amended accordingly, with the drafting for the Options not used being deleted, the clauses used renumbered and cross references updated. The five Options are:

- Option 1: (default) Buyer owns New IPR, with limited Supplier rights to New IPR in order to deliver the Contract)*
- Option 2: Buyer ownership of New IPR with non-exclusive Supplier rights;*
- Option 3: Supplier ownership of New IPR with Buyer rights for the current contract only;*
- Option 4: Supplier ownership of New IPR with Buyer rights for the current contract and broader public sector functions;*
- Option 5: Options 2, 3, or 4, plus Authority rights to a gain/profit share*

Please refer to section 2.7 of the Model Services Contract guidance for further detail on how these options are intended to operate. Please note, clause references in that guidance may differ in the mid-tier.

If Option 1 is chosen, when publishing as open source, Buyers should be mindful that the terms of any input licence (that is the open source licence for any open source software which has been used to create the Specially Written Software) aligns with the 'output licence' (that is, the licence under which the Buyer will publish the Software as open source).]

[Guidance note: for Option 1: Buyer owns all New IPR, with limited Supplier rights to New IPR in order to deliver the Contract, please include the following drafting:]

.....

9.2.3 Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:

9.2.3.1 notify the Buyer in writing giving details of what licence terms can be obtained and whether there are

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alternative software providers which the Supplier could seek to use; and

9.2.3.2 only use such third party IPR as referred to at Paragraph [\[9.2.39.2.3.1\]](#) if the Buyer Approves the terms of the licence from the relevant third party.

9.2.4 Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph [\[9.3.29.2.2\]](#) above, it must meet the requirement by making use of COTS Software or Specially Written Software.

9.2.5 The Supplier may terminate a licence granted under Paragraph [\[9.2.2\]](#) by giving at least thirty (30) days' notice in writing if there is an **AuthorityBuyer** Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

....

9.4 Buyer's right to assign/novate licences

9.4.1 The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [\[9.2\]](#) (*Licences for non-COTS IPR from the Supplier and third parties to the Buyer*) to:

9.4.1.1 a Central Government Body; or

9.4.1.2 to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2 If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraphs [\[9.19.2\]](#) and/or [\[9.2\]](#).

....

[Guidance note: for Option 2: Buyer owns all New IPR with non-exclusive Supplier rights, please include the following drafting:]

9.1. Assignments granted by the Supplier: Specially Written Software

9.1.1. The Supplier assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Buyer with full guarantee (or shall procure assignment to the Buyer), title to and all rights and interest in the Specially Written Software together with and including:

9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and

9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**").

9.1.2. The Supplier shall:

9.1.2.1. inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;

9.1.2.2. deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and

9.1.2.3. without prejudice to Paragraph 9.1.2.2, provide full details to the Buyer of any of the Supplier's Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

9.1.3. The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Buyer.

9.2. **Licences for non-COTS IPR from the Supplier and third parties to the Buyer**

9.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

9.2.1.1. of its own Existing IPR that is not COTS Software;

9.2.1.2. third party software that is not COTS Software

9.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grant to the

Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph [9.2.2]. If the Supplier cannot obtain such a licence for the Buyer it shall:

9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and

9.2.3.2. only use such third party IPR as referred to at Paragraph [9.2.3] if the Buyer Approves the terms of the licence from the relevant third party.

9.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph [9.3.2] above, it must meet the requirement by making use of COTS Software or Specially Written Software.

9.2.5. The Supplier may terminate a licence granted under Paragraph 9.2.2 by giving at least thirty (30) days' notice in writing if there is an Buyer Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

9.3. Licences for COTS Software by the Supplier and third parties to the Buyer

9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard

commercial terms on which such software is usually made commercially available.

9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph [9.3] the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:

9.3.4.1. will no longer be maintained or supported by the developer; or

9.3.4.2. will no longer be made commercially available.

9.4. Buyer's right to assign/novate licences

9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.2] (*Licences for non-COTS IPR from the Supplier and third parties to the Buyer*) to:

9.4.1.1. a Central Government Body; or

9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraphs [9.1] and/or [9.2].

9.5. Licence granted by the Buyer

9.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to:

9.5.1.1. use the Buyer Software solely to the extent necessary for providing the Deliverables in accordance with this Contract; and

9.5.1.2. use and exploit the Specially Written Software, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential).

9.6. Malicious Software

9.6.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available

from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

9.6.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

9.6.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph [9.6.2] shall be borne by the Parties as follows:

9.6.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and

9.6.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

9.7. Restrictions on exploiting Specially Written Software

9.7.1. Notwithstanding the Supplier's ownership of the Specially Written Software or licence which allows it to exploit and commercialise the New IPR:

9.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;

9.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any

further information which the Buyer may reasonably request; and

9.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 9.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;

9.7.2. The Buyer shall be under no obligation to:

9.7.2.1. offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or

9.7.2.2. accept any alternative arrangement proposed by the Supplier under this Paragraph and the Buyer shall be entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR applies as applies under this Contract.

9.7.3. This Contract does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).

9.7.4. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.

[Guidance note: for Option 3: Supplier ownership of all New IPR with Buyer rights for the current contract only, please include the following drafting:]

9.1. Licences granted by the Supplier: Specially Written Software

9.1.1. The Supplier shall grant to the Buyer a perpetual, royalty-free and exclusive licence to use, adapt and sub-license the Specially Written Software together with and including:

9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and

9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and

tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**",

for any purpose relating to the Deliverables (or substantially equivalent deliverables) [or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function] [**Guidance note: delete wording in square brackets if Option 3 is chosen, and possibly if Option 5 is chosen depending on the agreement**] including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2. Licences for non-COTS IPR from the Supplier and third parties to the Buyer

9.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

9.2.1.1. of its own Existing IPR that is not COTS Software;

9.2.1.2. third party software that is not COTS Software

9.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph [9.2.2]. If the Supplier cannot obtain such a licence for the Buyer it shall:

9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and

9.2.3.2. only use such third party IPR as referred to at Paragraph [9.2.3] if the Buyer Approves the terms of the licence from the relevant third party.

9.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph [9.3.2] above, it must meet the requirement by making use of COTS Software or Specially Written Software.

9.2.5. The Supplier may terminate a licence granted under Paragraph [9.2.2] giving at least thirty (30) days' notice in writing if there is an Buyer Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

9.3. Licences for COTS Software by the Supplier and third parties to the Buyer

9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph [9.3] the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:

9.3.4.1. will no longer be maintained or supported by the developer; or

9.3.4.2. will no longer be made commercially available.

9.4. Buyer's right to assign/novate licences

9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.2] (*Licences for non-COTS IPR from the Supplier and third parties to the Buyer*) to:

9.4.1.1. a Central Government Body; or

9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.1] (*Licences granted by the Supplier: Specially Written Software*) to:

9.4.2.1. a Central Government Body; or

9.4.2.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer

[provided that such transfer is for any purpose relating to the Deliverables (or substantially equivalent deliverables)]

[Guidance note: delete wording in square brackets if Option 4 is chosen, and possibly if Option 5 is chosen depending on the agreement]

9.4.3. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraphs [9.1] and/or [9.2].

9.5. Licence granted by the Buyer

9.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential).

9.6. Malicious Software

9.6.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

9.6.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

9.6.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph [9.6.2] shall be borne by the Parties as follows:

9.6.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and

9.6.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

9.7. Restrictions on exploiting Specially Written Software

9.7.1. Notwithstanding the Supplier's ownership of the Specially Written Software or licence which allows it to exploit and commercialise the New IPR:

9.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;

9.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Buyer may reasonably request; and

9.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 9.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;

9.7.2. The Buyer shall be under no obligation to:

9.7.2.1. offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or

9.7.2.2. accept any alternative arrangement proposed by the Supplier under this Paragraph and the Buyer shall be entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR applies as applies under this Contract.

9.7.3. This Contract does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).

9.7.4. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.

[Guidance note: for Option 4: Supplier ownership of all IPR with Buyer rights for the current contract and broader public sector functions, please include the following drafting:]

9.1. Licences granted by the Supplier: Specially Written Software

9.1.1. The Supplier shall grant to the Buyer a perpetual, royalty-free and exclusive licence to use, adapt and sub-license the Specially Written Software together with and including:

9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and

9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**"),

for any purpose relating to the Deliverables (or substantially equivalent deliverables) [or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function] **[Guidance note: delete wording in square brackets if Option 3 is chosen, and possibly if Option 5 is chosen depending on the agreement]** including the right to load, execute, store, transmit, display and copy (for

the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2. Licences for non-COTS IPR from the Supplier and third parties to the Buyer

9.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

9.2.1.1. of its own Existing IPR that is not COTS Software;

9.2.1.2. third party software that is not COTS Software

9.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph [9.2.2]. If the Supplier cannot obtain such a licence for the Buyer it shall:

9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and

9.2.3.2. only use such third party IPR as referred to at Paragraph [9.2.3] if the Buyer Approves the terms of the licence from the relevant third party.

9.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph [9.3.2] above, it must meet the requirement by making use of COTS Software or Specially Written Software.

9.2.5. The Supplier may terminate a licence granted under Paragraph [9.2.2] by giving at least thirty (30) days' notice in writing if there is an Buyer Cause which constitutes a material

Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

9.3. Licences for COTS Software by the Supplier and third parties to the Buyer

9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph [9.3] the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:

9.3.4.1. will no longer be maintained or supported by the developer; or

9.3.4.2. will no longer be made commercially available.

9.4. Buyer's right to assign/novate licences

9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.2] (*Licences for non-COTS IPR from the Supplier and third parties to the Buyer*) to:

9.4.1.1. a Central Government Body; or

9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.1] (*Licences granted by the Supplier: Specially Written Software*) to:

9.4.2.1. a Central Government Body; or

9.4.2.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer

[provided that such transfer is for any purpose relating to the Deliverables (or substantially equivalent deliverables)]

[Guidance note: delete wording in square brackets if Option 4 is chosen, and possibly if Option 5 is chosen depending on the agreement]

9.4.3. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraphs [9.1] and/or [9.2].

9.5. Licence granted by the Buyer

9.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential).

9.6. Malicious Software

9.6.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

9.6.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

9.6.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph [9.6.2] shall be borne by the Parties as follows:

9.6.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and

9.6.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

9.7. Restrictions on exploiting Specially Written Software

9.7.1. Notwithstanding the Supplier's ownership of the Specially Written Software or licence which allows it to exploit and commercialise the New IPR:

9.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;

9.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Buyer may reasonably request; and

9.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 9.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;

9.7.2. The Buyer shall be under no obligation to:

9.7.2.1. offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or

9.7.2.2. accept any alternative arrangement proposed by the Supplier under this Paragraph and the Buyer shall be entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR applies as applies under this Contract.

9.7.3. This Contract does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).

9.7.4. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.

[Guidance note: for Option 5: Supplier ownership of all new IPR with Authority rights and a gain/profit share, please use the appropriate drafting taken from either Options 2, 3 or Option 4, tailored as appropriate, and include the following additional drafting]:

9.8. Gain share

9.8.1. The Supplier is permitted to commercially exploit the Specially Written Software and/or New IPRs or any material reproducing them provided that it pays to the Buyer an amount to be calculated using one of the following options, such option to be agreed in writing by the parties prior to any commercial exploitation:

9.8.1.1. a levy for the use of the Specially Written Software and/or New IPRs including copyright to be calculated at [...] % of the Supplier's selling/licensing price; or

9.8.1.2. a profit sharing arrangement on the basis of a levy payable to the Buyer in respect of the Supplier's exploitation of the Specially Written Software and/or New IPRs. This levy expressed as a percentage of the profit and shall be determined as follows:

gross sale or licence price, i.e. the price for which the Supplier invoices its customer

minus

the allowable costs as prescribed by the Buyer for this purpose

The profit so determined shall be shared between the Supplier and the Buyer as below, but in no circumstances will any loss be shared:

9.8.1.3. The first [...] per cent shall be retained by the Supplier;

9.8.1.4. The next [.....] per cent shall be shared between the Supplier and the Buyer in the ratio of [.....];

9.8.1.5. The remaining profit shall be shared between the Supplier and the Buyer in the ratio of [.....].

9.8.2. The Supplier shall promptly inform the Buyer if any of the Specially Written Software and/or New IPRs are capable of exploitation outside of the Contract.

9.8.3. Sales involving, or licences to reproduce, adaptations, extractions, translations or enhancements of the Specially Written Software and/or New IPRs shall attract levy in accordance with the Contract unless the Buyer agrees in writing that an allowance may be made for software that was not developed at the Crown's or Buyer's expense.

9.8.4. The following provisions shall apply to this Contract:

9.8.4.1. The Supplier shall provide as soon as possible after delivery of the sale/licensed articles a statement, in a form prescribed by the Buyer, of the calculable profitability showing the gross selling/licence price and a summary of the allowable costs together with a certificate from its statutory auditors that the statement is correct and complete and that it complies with the accounting conventions agreed by the Buyer for the purpose.

9.8.4.2. The Supplier shall provide such facilities as may be necessary for the Buyer, if it so desires, to verify the statements and for this purpose the Supplier shall maintain proper books of accounts and records at its premises and shall make them available for inspection whether physically or otherwise at all reasonable times by representatives of the Buyer.

9.8.4.3. The liability of the Supplier to the Buyer for any sum due under this Contract including interim payment of levy for exploitation of the Specially Written Software and/or New IPRs shall accrue on the date of delivery to the third party licensee/sub-licensee excluding the Supplier's works or, where the licence so prescribes, upon shipment.

9.8.5. If within three years of its creation, any Intellectual Property in the Specially Written Software and/or New IPRs has not been commercially exploited by the Supplier, and the Supplier is not using its best endeavours to do so, the Supplier shall on written request by the Buyer promptly assign the Intellectual Property Rights in the Specially Written Software and/or New IPRs to the Buyer. Each party shall bear its own costs in such assignment.

<p>Clause 10.4</p>	<p>The guidance in clause 10.4 has been amended as follows:</p> <p>8.4 Software as a Service Terms</p> <p>10.4.1 Additional terms for provision of a Software as a Service solution are detailed in [insert reference to relevant Schedule].</p> <p><i>[Guidance Note: If you need to purchase standard SAAS only, a CCS Framework may be the most appropriate contract to use. If a system developed and managed under this Contract contains SAAS elements, you will need to ensure that you are able to continue to buy that SAAS on VFM commercial terms. SAAS tends to be provided based on Supplier-furnished terms, and the IPR position will need to reflect this.]</i></p>
	<p>See also the new definitions of e.g. Buyer Existing IPR, Crown IPR, End User, New IPR Item, Open Licence, Open Licence Publication Material, Special IPR Terms, Supplier Existing IPR, Supplier Existing IPR Licence, and Third Party IPR Licence, the amendments to Clause 10 of the Core Terms, and new Schedule 36, below.</p>

<h2 style="color: blue;">New SCHEDULE 28A (Agile Development)</h2>	
<p>New Schedule 28A</p>	<p>A new optional Schedule 28A (Agile Development) has been added.</p> <p>See also the amendments to the Award Form, above.</p>

<h2>SCHEDULE 29 (Key Supplier Staff)</h2>	
<p>Throughout</p>	<p>No changes</p>

<h2>SCHEDULE 30 (Exit Management)</h2>	
<p>Throughout</p>	<p>References to clauses in the Core Terms or other Schedules have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.</p>
<p>Para 1.1 “Exit Plan”</p>	<p>The definition has been deleted from Schedule 30 as it is now defined in Schedule 1 and within the text of Schedule 30.</p>

Para 1.1 "Registers"	The definition has been deleted from Schedule 30 as it has been replaced by "Virtual Library", below.
Para 1.1 "Termination Assistance"	This definition has been moved from Schedule 30 to Schedule 1.
Para 1.1 "Termination Assistance Notice"	This definition has been moved from Schedule 30 to Schedule 1.
Para 1.1 "Virtual Library"	<p>A new definition has been added as follows:</p> <p>Virtual Library</p> <p>the data repository hosted by the Supplier containing the accurate information about the Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.</p>
Para 2	<p>Para 2 has been amended as follows:</p> <p>2. SUPPLIER MUST ALWAYS BE PREPARED FOR CONTRACT EXIT</p> <p>2. 1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.</p> <p>2.2 During the Contract Period, the Supplier shall promptly within 30 days from the Start Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:</p> <p>2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and</p> <p>2.2.2 create and maintain a configuration database detailing the technical infrastructure, a schedule of the IPRs which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables; and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times.</p>

	<p>All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form. ("Registers").</p> <p>2.3 Where Schedule 7 (Staff Transfer) applies to this Contract, the Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).</p> <p>2.4 The Supplier shall:</p> <p>2.4.1 ensure that all Exclusive Assets listed in the Registers Virtual Library are clearly physically identified as such; and</p> <p>2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.</p> <p>2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.</p>
Para 4.1	<p>Para 4.1 has been amended as follows:</p> <p>4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan a plan which complies with the requirements set out in Paragraph 4.2 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "Exit Plan").</p>
Para 4.3	<p>Para 4.3 has been amended as follows:</p> <p>4.3 The Exit Plan shall set out, as a minimum:</p> <p>4.3.1 how the Exit Information is obtained;</p> <p>4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;</p> <p>4.3.3 the management structure to be employed during the Termination Assistance Period;</p> <p>4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;</p> <p>4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;</p>

	<p>4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;</p> <p>4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);</p> <p>4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;</p> <p>4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;</p> <p>4.3.10 proposals for the training of key members of the Replacement Supplier’s staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;</p> <p>4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;</p> <p>4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;</p> <p>4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;</p> <p>4.3.14 proposals for the disposal of any redundant Deliverables and materials;</p> <p>4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and</p> <p>4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.</p>
Para 4.4	<p>A new para 4.4 has been added as follows:</p> <p>4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (<i>Charges</i>). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly</p>

	<p>proportionate to the level of resources required for the provision of the Termination Assistance Services.</p>
<p>Para 5</p>	<p>Para 5 has been amended and renumbered as follows:</p> <p>5. TERMINATION ASSISTANCE</p> <p>5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "Termination Assistance Notice") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:</p> <p>5.1.1 the nature of the Termination Assistance required; and</p> <p>5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables End Date.</p> <p>5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:</p> <p>5.2.1 no such extension shall not extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it</p> <p>5.2.2 the Buyer shall notify the Supplier of any such this extension by serving not less than no later than twenty (20) Working Days' written notice upon the Supplier. prior to the date on which the provision of Termination Assistance is otherwise due to expire.</p> <p>5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.</p> <p>5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).</p>

Para 6	<p>Paras 6.1.4 and 6.1.5 have been amended as follows:</p> <p>6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;</p> <p>6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers contents of the Virtual Library to the Buyer; and</p>
Para 7.2	<p>A new para 7.2.1 has been inserted as follows, and paras 7.2.1 to 7.2.3 have been renumbered 7.2.2 to 7.2.4:</p> <p>7.2.1 cease to use the Government Data;</p>
Para 7.3	<p>A new para 7.3 has been inserted as follows, and paras 7.3 has been renumbered 7.4:</p> <p>7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.</p>
Para 8.2	<p>Para 8.2 has been amended as follows:</p> <p>8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:</p>
Para 8.2.3	<p>Para 8.2.3 has been amended as follows:</p> <p>8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "Transferring Contracts"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. <i>Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.</i></p>

Para 8.9	<p>Para 8.9 has been amended as follows:</p> <p>8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third parties beneficiaries by virtue of the CRTPA.</p>
New Annex 1	<p>A new Annex 1 has been added as follows:</p> <p>ANNEX 1: SCOPE OF TERMINATION ASSISTANCE</p> <p><i>[Guidance: Please see paragraph 7.7 of the Model Services Contract guidance for further detail on choosing Termination Assistance Services]</i></p>

1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:

1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;

1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;

1.1.3 providing details of work volumes and staffing requirements over the 12 Months immediately prior to the commencement of Termination Assistance;

1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of 12 Months after the Termination Assistance Period;

1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;

1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;

1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;

1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;

1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;

1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;

1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 Months afterwards for the purpose of the smooth transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and

b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);

b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;

c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;

d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have

been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and

e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

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

1.2 The Supplier will:

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

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

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

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

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

1.4.2 product information;

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

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

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

	<p>1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:</p> <p>1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:</p> <p style="padding-left: 40px;">a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and</p> <p style="padding-left: 40px;">b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and</p> <p>1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.</p>
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<p>Previously SCHEDULE 31 (MOD Terms)</p> <p>New SCHEDULE 31 (Buyer Specific Terms)</p>	
<p>Previous Schedule 31 (MOD Terms)</p>	<p>Schedule 31 has been renamed “Buyer Specific Terms”, with guidance added to tell Buyers to insert their own specific terms, and MoD-specific terms added as an example only.</p>
<p>Now Schedule 31 (Buyer Specific Terms)</p>	<p>See also the amendments to the Award Form, above.</p>

<p>SCHEDULE 32 (Background Checks)</p>	
<p>Throughout</p>	<p>No changes</p>

SCHEDULE 33 (Scottish Law)

Throughout	References to clauses in the Core Terms or other Schedules have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.
Beginning	The following wording has been inserted at the beginning of the Schedule: THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING AGREEMENT BETWEEN [NAME OF PARTY] AND [NAME OF PARTY] DATED [DATE]
New Para 2.1	A new Para 2.1 has been inserted as follows, and Paras 2.1-2.3 have been renumbered 2.2-2.4: Clause 8.3.1 e) (When Sub-Contracts can be ended) – “Regulation 57 of the Public Contracts Regulations 2015” shall be replaced by “Regulation 58 of the Public Contracts (Scotland) Regulations 2015”.
Previous Para 2.2.1, Now Para 2.3.1	Para 2.3.1 has been amended as follows, correcting an incorrect cross-reference: Clause 34.239.3 – add the following wording: “The governing law and jurisdiction provisions of CEDR’s Model Mediation Agreement shall be deemed to be amended to refer to the laws of Scotland and the Court of Session.”
Para 3	Para 3 has been amended as follows: <i>[Guidance Note: The pension schemes referenced in Part D of Schedule 7 may not apply where this Schedule is used. Buyers may wish to take advice as to whether these provisions are appropriate, or an alternative is required.]</i> 3.1 Schedule 1 – Definitions shall be amended as follows: 3.1.1 The definition of “CRTPA” shall be replaced by “CTPRSA” the Contract (Third Party Rights) (Scotland) Act 2017”. 3.1.2 In the definition of “Dispute” the reference to “English law” shall be replaced by “the Law of Scotland” and the reference to the “English courts” shall be replaced by the “courts of Scotland”. 3.1.3 The definition of EIR shall be amended to add “or the Environmental Information (Scotland) Regulations 2004”.

	<p>3.1.4 The definition of FOIA shall be amended to add, after “the Freedom of Information Act 2000” the words “or the Freedom of Information (Scotland) Act 2002”.</p> <p>3.1.5 In Part (d) of the definition of “Insolvency Event” – the word will be deleted and replaced with “<i>that person has been served with a charge for payment which has expired, and a creditor has been granted an attachment order by a court, which is executed in relation to the property of that person, or such other process is enforced or pursued against the whole or any part of that person’s property</i>”. In part (f) of the definition, (f)(iv) will be deleted in its entirety. “Assignment” replaced by “Assignment”.</p> <p>3.1.6 In the definition of “Losses” the word “tort” shall be replaced with “delict”.</p> <p>3.1.7 In part (a) of the definition of “Intellectual Property Rights” the words “Know-How” and “trade secrets” refer to pre-existing know-how and trade secrets only.</p> <p>3.1.8 “Working Day”: reference to the words “or public holiday in England and Wales” shall be replaced by “when banks in Edinburgh are open for business Scotland”</p> <p>3.2 Where Service Recipients want to join with the Buyer to contract collectively under the Contract, the following provisions of Schedule 17 – Service Recipients will be amended as follows:</p> <p>3.2.2 Paragraph 3.4 shall be amended to read “Each of the Service Recipients will acquire a third-party right for the purposes of the CRTPSA and may enforce the relevant provisions of the Contract pursuant to CRTPSA”.</p> <p>3.2.3 Paragraph 3.6.2 shall be amended so that reference to “CRTPA” is replaced with “CRTPSA”.</p> <p>...</p> <p>3.3 The following wording shall be read in to each of the Schedules to this Contract, before paragraph 1: “This is the schedule referred to in the foregoing agreement between [NAME OF PARTY] and [NAME OF PARTY] dated [DATE].”</p>
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<h2>SCHEDULE 34 (Northern Ireland Law)</h2>	
<p>Throughout</p>	<p>References to clauses in the Core Terms or other Schedules have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.</p>

<p>New Para 2.1</p>	<p>A new Para 2.1 has been inserted as follows, and Paras 2.1-2.2 have been renumbered 2.2-2.3:</p> <p>2.1 Clause 32 – (Equality Diversity and Human Rights)</p> <p>2.1.1 Clause 32.1.1 substitute the following wording: “protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, religious belief or political opinion, disability, sexual orientation, pregnancy, maternity, age or otherwise; and”</p> <p>2.1.1 Clause 32.2 substitute the following wording: “The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Northern Ireland Human Rights Commission (or any successor organisation) when working on the Contract.”</p>
<p>Previous Para 2.1, Now Para 2.2</p>	<p>Para 2.2 has been amended as follows, including correcting an incorrect cross-reference:</p> <p>...</p> <p>2.2.1 Clause 39.2 substitute the following wording: “If the Dispute is not resolved at that meeting, the Parties Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Dispute Resolution Service of Northern Ireland (DRS) Code of Practice current time at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by DRS. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.339.4 to 34.539.6”.</p> <p>2.2.2 Clause 39.3: the term “Courtscourts of England and Wales” shall be amended to read “Courtscourts of Northern Ireland”.</p> <p>....</p>
<p>Previous Para 2.2, Now Para 2.3</p>	<p>Para 2.3 has been amended as follows:</p> <p>Clause 40 (Which Laws applylaw applies): the term “English Lawlaw” shall be replaced with “the Lawlaw of Northern Ireland”.</p>
<p>Para 3.1</p>	<p>Para 3.1 has been amended as follows:</p> <p>3.1 Schedule 1 (Definitions)</p>

	<p>3.1.1 “Dispute”: reference to “English law” and “English Courts” to be replaced with “the law of Northern Ireland” and “the courts of Northern Ireland”.</p> <p>3.1.2 “Employment Regulations” substitute the following wording: “the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 as amended or replaced;”.</p> <p>3.1.3 “Equality and Human Rights Commission”: replace with “The Northern Ireland Human Rights Commission” and substitute definition with: “the Northern Ireland body named as such as may be renamed or replaced by an equivalent body from time to time;”.</p> <p>3.1.4 “Insolvency Event”: any reference to a Part or section 123 of the Insolvency Act 1986 shall be deemed to include an alternative reference, if applicable, to the equivalent Part or section to be replaced with article 103 of the Insolvency (Northern Ireland) Order 1989, reference to section 222 of the Insolvency Act 1986 to be replaced with article 186 of the Insolvency (Northern Ireland) Order 1989, and reference to a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 to be replaced with Schedule A1 of the Insolvency (Northern Ireland) Order 1989. “Prescribed Person” substitute the following wording “a list of prescribed persons to which a whistleblower may make a disclosure is contained within Appendix 1 to the Guide to the Public Interest Disclosure (Northern Ireland) Order 1998;”.</p> <p>3.1.5 “Working Day”: reference to “England and Wales” replaced by “Northern Ireland”.</p>
Previously Para 3.4, Now Para 3.2	<p>Para 3.4 has been renumbered 3.2 and amended as follows:</p> <p>3.2 If this Schedule 34 (Northern Ireland Law) is included in anythe Contract, then Schedule 6 (Transparency Reports) is excluded from thatthe Contract and does not apply to thatthe Contract.</p>
New Para 3.3	<p>A new Para 3.3 has been inserted as follows:</p> <p>3.3 Schedule 7 (Staff Transfers)</p> <p>[Guidance: The pension schemes referenced in Part D of Schedule 7 may not apply where this Schedule is used. Buyers may wish to take advice as to whether these provisions are appropriate, or an alternative is required.]</p> <p>3.3.1 Paragraph 1 (Definitions)</p>

	<p>(a) “Employee Liability”:</p> <ul style="list-style-type: none"> • substitute the following wording: “compensation for discrimination on grounds of sex, race, disability, age, religion or belief, religious belief or political opinion, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;” • substitute the following wording “any investigation by the Northern Ireland Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;”. <p>3.3.2 Part A: Staff Transfer at the Start Date - Transferring Employees from the Buyer to the Supplier</p> <p>(a) Paragraph 2.4.1 substitute the following wording: “for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or”.</p> <p>(b) Paragraph 6.1.1 substitute the following wording: “the requirements of Part 1 of the Pensions (No 2) Act (Northern Ireland) 2008, article 235 of the Pensions (Northern Ireland) Order 2005 and the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005 for all transferring staff; and”.</p> <p>3.3.3 Part B: Staff Transfer at the Start Date - Transfer from a Former Supplier on Re-procurement</p> <p>(a) Paragraph 2.4(a)(i)(A) substitute the following wording: “for discrimination, including on the grounds of race, sex, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or religious belief or political opinion; or”.</p> <p>(b) Paragraph 7.1.1 substitute the following wording: “the requirements of Part 1 of the Pensions (No 2) Act (Northern Ireland) 2008, article 235 of the Pensions (Northern Ireland) Order 2005 and the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005 for all transferring staff; and”.</p>
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	<p>3.3.4 Part C: No Staff Transfer on the Start Date</p> <p>(a) Paragraph 1.5.1 substitute the following wording: “for discrimination including on the grounds of sex, race, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion;”.</p> <p>3.3.5 Part D: Pensions</p> <p>(a) Paragraph 10.3(b): reference to section 75 and section 75A of the Pensions Act 1995 to be replaced with article 75 and article 75A of the Pensions (Northern Ireland) Order 1975.</p> <p>(b) Paragraph 11.3(b): reference to sections 75 and 75A of the Pensions Act 1995 to be replaced with articles 75 and 75A of the Pensions (Northern Ireland) Order 1975 respectively.</p> <p>3.3.6 Part E: Staff Transfer on Exit</p> <p>(a) Paragraph 2.6.1(a) substitute the following wording: “discrimination, including on the grounds of sex, race, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion; or”.</p> <p>(b) Annex E2: Staffing Information (Pensions) substitute the following wording: “Is the scheme an occupational pension scheme as defined in the Pension Schemes (Northern Ireland) Act 1993?”.</p> <p>(c)</p>
<p>Previously Para 3.3, Now Para 3.4</p>	<p>Para 3.3 has been renumbered 3.4 and amended as follows:</p> <p>3.4 Schedule 23 (Guarantee) Annex 1 - Form of Guarantee</p> <p>3.4.1 Clause 4.1: delete references to “England and Wales” when referring to addresses.</p> <p>3.4.2 Clause 16: change title to “Governing Law and Jurisdiction”; references to “courts of England” to be replaced by “Courtscourts of Northern Ireland”, references to “English law” to be replaced by the “the law of Northern Ireland”.</p> <p>3.4.3 Clause 16.4: substitute Guidance Note with the following wording: [Guidance Note: Include the above provision when dealing with the appointment of a Northern Irish process agent by a non-Northern Irish incorporated Guarantor]</p> <p>3.4.4 Clause 16.5 substitute the following wording: “[The Guarantor hereby irrevocably designates, appoints and</p>

	<p>empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in Northern Ireland] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in Northern Ireland for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]”</p>
<p>Previous Para 3.2, Now Para 3.5</p>	<p>Para 3.2 has been renumbered 3.5 and amended as follows:</p> <p>3.5 Schedule 26 - Corporate Social ResponsibilitySustainability</p> <p>3.2.1 Clause 1.1: substitute the following wording: “NOT USED”.</p> <p>3.2.2 Clause 1.2: substitute the following wording: “NOT USED”.</p> <p>3.5.1 Clause 2.4 Part A:</p> <p>(a) Paragraph 1.1 substitute the following wording: “In addition to the applicable equality and anti-discrimination legal obligations in Northern Ireland, the Supplier shall support the Buyer in fulfilling its obligations to promote equality of treatment under Section 75 of the Northern Ireland Act 1998 and in a way that seeks to:”.</p> <p>(b) Paragraph 1.1.1 substitute the following wording: “eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010 and the equivalent legislation in Northern Ireland;”.</p> <p>(c) Paragraph 1.1.2.2 substitute the following wording: “good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, religious belief or political opinion, sex, sexual orientation, and marriage and civil partnership) and those who do not share it;”.</p> <p>(d) Paragraph 5.1 of Part A: substitute the following wording: “NOT USED”.</p>
<p>Previous Para 3.5, Now Para 3.6</p>	<p>Para 3.5 has been renumbered Para 3.6 and has been amended as follows, correcting incorrect cross-references:</p> <p>3.6 Clause 3.1.2: substitute the following wording: “Notwithstanding Paragraph 2.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer</p>

	<p>owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must) conduct an “Enhanced” Access NI Check and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.” Paragraph 3.2.3 substitute the following wording: “conduct an “Enhanced” Access NI Check,”.</p>
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SCHEDULE 35 (Lease Terms)	
Throughout	<p>Incorrect within-Schedule references to “Clause” or “paragraph” have been changed to “Paragraph”.</p> <p>References to “takes all reasonable steps” or “take all reasonable steps” have been changed to “uses all reasonable endeavours” or “use all reasonable endeavours”.</p> <p>References to clauses in the Core Terms or other Schedules have been renumbered, where necessary, and minor corrections have been made to the names of these where necessary.</p>
Para 2 “Net Book Loss”	This definition has been deleted as it is not used in the Contract.
Para 3	<p>Cross references in para 3.1.5 and 3.1.6 have been corrected and renumbered. These now read:</p> <p>3.1.5 Clause 14.3 does not apply to the Buyer terminating the hire of any Equipment; and</p> <p>3.1.6 Clause 15.2 does not apply where the Buyer must pay a Termination Sum or any amount under Paragraph 11.</p>
Para 7.17	<p>The cross reference in para 7.17 has been corrected. This has been amended as follows:</p> <p>7.17 Where a piece of Equipment is withdrawn from service under Paragraph 7.13 8.9 above, if the Supplier does not provide relief Equipment to the Buyer within five (5) Working Days of withdrawal, the Rentals in respect of that piece of Equipment are suspended and do not resume until relief Equipment has been provided or the Equipment has been returned to the Buyer. The suspension of Rentals is calculated on a daily basis.</p>

New SCHEDULE 36 (Intellectual Property Rights)

New Schedule 36	<p>A new mandatory Schedule 36 (Intellectual Property Rights) has been added. This largely replaces previous clause 9 (Intellectual Property Rights) of the Core Terms. Please see the Schedule to compare any differences to previous Clause 9. Additional drafting options have been added.</p> <p>See also the amendments to the Award Form, Clauses 10,14.4.1(h), and 14.5.1(h) of the Core Terms, and Schedule 28 above.</p>
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New SCHEDULE 37 (Corporate Resolution Planning)

New Schedule 37	<p>A new optional Schedule 37 (Corporate Resolution Planning) has been added.</p> <p>See also the amendments to the Award Form, and Clauses 14.4.2 and 14.5.1 of the Core Terms above.</p>
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