

## **Call-Off Schedule 21 (Northern Ireland Law)**

### **1. When you should use this Schedule**

- 1.1. This Call-Off Schedule 21 may be included to adapt the General Terms and Schedules so that the Call-Off Contract is under Northern Ireland Law.

### **2. Changes to the General Terms**

- 2.1 Clause 31 (*Equality, diversity and human rights*)
  - 2.1.1 Clause 31.1(a) 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”
  - 2.1.2 Clause 31.2 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.”
- 2.2 Clause 38 (*Resolving Disputes*)
  - 2.2.1 Clause 38.2: substitute the following wording: “If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Dispute Resolution Service (DRS) (administered by the Law Society of Northern Ireland) 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 38.3 to 38.5”.
  - 2.2.2 Clause 38.3: the term “Courts of England and Wales” shall be amended to read “Courts of Northern Ireland”.
  - 2.2.3 Clause 38.4: the seat or legal place of the arbitration shall be amended, so that it takes place in Belfast as opposed to London.
- 2.2 Clause 39 (*Which laws applies*): the term “English Law” shall be replaced with “the Law of Northern Ireland”.

### **3. Changes to the Joint Schedules**

- 3.1 Joint Schedule 1 (*Definitions*)
  - 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”.

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- 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;”.
- 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;”.
- 3.1.4 “Insolvency Event”: reference to section 123 of the Insolvency Act 1986 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 Part 1A (inserted by the Corporate Insolvency and Governance Act 2020) of the Insolvency (Northern Ireland) Order 1989.
- 3.1.5 “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;”.
- 3.1.6 “Working Day”: reference to “England and Wales” replaced by “Northern Ireland”.
- 3.2 Joint Schedule 5 (*Sustainability*)
  - 3.2.1 Paragraph 2.1 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:”.
  - 3.2.2 Paragraph 2.1.1 substitute the following wording: “eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Employment Equality (Age) Regulations (Northern Ireland) 2006, Employment Equality (Repeal of Retirement Age) Regulations (Northern Ireland) 2011, The Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004, Sex Discrimination (Northern Ireland) Order 1976 (as amended), Equal Pay Act (Northern Ireland) 1970, Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999, Race Relations (Northern Ireland) Order 1997, Fair Employment and Treatment (Northern Ireland) Order 1998, Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 and the Civil Partnership Act 2004;”.

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- 3.2.3 Paragraph 2.1.2. 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;”.
- 3.2.4 Paragraph 7.1 and 7.2 substitute the wording: "NOT USED".
- 3.3 In Annex 1 to Joint Schedule 8 (*Guarantee*)
  - 3.3.1 Clause 4.1: Delete references to “England and Wales” when referring to addresses.
  - 3.3.2 Clause 16: change title to Governing Law and Jurisdiction”; references to “Courts of England” to be replaced by “Courts of Northern Ireland”, references to “English law” to be replaced by the “the laws of Northern Ireland”.
  - 3.3.3 Clause 16.4: substitute Guidance Note with the following wording:  
***[Buyer Guidance: Include the above provision when dealing with the appointment of a Northern Irish process agent by a non-Northern Irish incorporated Guarantor]***
  - 3.4.4 Clause 16.5 substitute the following wording: “[The Guarantor hereby irrevocably designates, appoints and 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.]”

## 4. Changes to the Call-Off Schedules

### 4.1 Call-Off Schedule 2 (*Staff Transfer*)

***[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.]***

#### 4.1.1 Paragraph 1 (*Definitions*)

##### (a) “Employee Liability”:

- in limb c), 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

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civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;”

- in limb g), 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;”.

### 4.1.2 Part A: Staff Transfer at the Start Date - Transferring Employees from the Buyer to the Supplier

- (a) Paragraph 2.6.1(a) substitute the following wording: “any claim 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”.
- (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”.

### 4.1.3 Part B: Staff Transfer at the Start Date - Transfer from a Former Supplier on Re-procurement

- (a) Paragraph 2.7.1(a)(i) 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”.
- (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”.

### 4.1.4 Part C: No Staff Transfer on the Start Date

- (a) Paragraph 1.8.1(a)(i) 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

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orientation, religion or belief, religious belief or political opinion;”.

### 4.1.5 Part D: Pensions

- (a) Paragraph 10.3.2: 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.
- (b) Paragraph 11.3.2: 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.

### 4.1.6 Part E: Staff Transfer on Exit

- (a) Paragraph 1.7.7 substitute the following wording: “a complete copy of the information required to meet the minimum record keeping requirements under the Working Time Regulations (Northern Ireland) 2016 and the National Minimum Wage Regulations 2015; and”
- (b) Paragraph 2.9.1(a)(i) 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”.
- (c) 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?”.

## 4.2 Call-Off Schedule 18 (*Background Checks*)

- 4.2.1 Paragraph 3.2(c) substitute the following wording: “conduct an “Enhanced” Access NI Check,”.