

GENERAL TERMS AND CONDITIONS

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1 DEFINITIONS AND INTERPRETATION

1.1 In this agreement, unless the context otherwise requires, the following words have the following meanings:

- Acceptance Criteria** means, for any Deliverable (as the context requires):
- (a) the Specification;
 - (b) any acceptance criteria communicated to the Supplier by Authority; and
 - (c) any other requirements for that Deliverable under this Contract, including without limitation, compliance with the applicable warranties and requirements in this Contract.
- Acceptance Period** means:
- (a) in respect of any Deliverable that needs to comply with the applicable Acceptance Criteria by a Milestone Date, the period of twenty Working Days (or other such period of time as agreed between the Parties) in each case, expiring on the applicable Milestone Date.; or
 - (b) in respect of any other Deliverables, the period of twenty Working Days from the date of delivery of such Deliverables.
- Acceptance Tests** means the tests as set out in the Specification or as reasonably agreed between the parties from time to time
- Achieve** means in respect of an Acceptance Test, to successfully pass such Acceptance Test without any issues in accordance with the Implementation Plan and in respect of a Milestone and "**Achieved**", "**Achieving**" and "**Achievement**" shall be construed accordingly;
- Affected Party** Means the Party seeking to claim relief in respect of a Force Majeure Event
- Affiliate** means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time
- Auditor** means:

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- a) the Authority's internal and external auditors;
- b) the Authority's statutory or regulatory auditors;
- c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office
- d) HM Treasury or the Cabinet Office
- e) any party formally appointed by the Authority to carry out audit or similar review functions; and

successors or assigns of any of the above.

Authorised

means signed by an Authorised Person

Authorised Person

means the Authority's employee or a police officer authorised either generally or specifically by the Authority to enter into this Contract and act on behalf of the Authority in relation to this Contract

Authority

means the contracting Authority referred to in the Contract or any successor organisation responsible for the tendering, award and overall management (including the issue of any variations and modifications to Contract) of the Contract on behalf of that contracting Authority and where that Authority is a PCC then it is entering into this Contract on behalf of itself and the Chief Constable and all the Conditions will apply to both legal entities.

Authority Assets

means the Authority's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Authority, described in the Contract, and which is or may be used in connection with the provision of the Services

Authority Cause

means any breach of the obligations of the Authority or any other default, act, omission, negligence or statement of the Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Authority is liable to the Supplier

Authority Data

means:

- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Authority's Confidential Information, and which:
 - i) are supplied to the Supplier by or on behalf of the Authority; or
 - ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or
- b) any Personal Data for which the Authority is the Controller;

Authority IPR Claims

means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR

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used in connection with this Contract, the Services, any Deliverable or as otherwise provided by or for the Supplier

Authority Software	means software which is owned by the Authority (or licensed to the Authority by a person other than the Supplier)
Authority System	means the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services
Benchmark	means the person appointed by the Authority to conduct the Benchmark Review
Benchmark Report	means the report prepared by the Benchmarker following the Benchmark Review
Benchmark Review	means the process of comparing the Equipment and Services against other provision as set out in the Specification or as subsequently agreed between the Parties
Business Continuity Event	means any incident or event that causes (or is likely to cause) an adverse effect on the performance and delivery of the Services or any material interruption, destruction or other loss of operational system capacity, which is material in nature and cannot be managed within the context of normal operating procedures
CEDR	means the Centre for Effective Dispute Resolution
Chief Constable	means the Chief Constable of the same relevant policing area as the Authority
Commencement Date	means the date of commencement of this Contract set out in the Contract
Conditions	means the terms and conditions (including any attached sections to this Contract) set out in this document from time to time
Confidential Information	means any and all: (a) information whether technical, operational, commercial, financial or otherwise (including without limitation data, know how, formulae, processes, designs, photographs, audio or videotape, CD ROMs, drawings, specifications, samples, finances, programmes, records, business plans, consumer research, analysis or experience) of whatever nature and whether disclosed orally, pictorially, in writing, by demonstration, by viewing, in machine readable form or other means (including on electromagnetic or CD media or via telephone lines or radio or microwave) and whether stored electronically or otherwise which relates to a person's business, operations, products, developments, services, trade secrets, know-how, personnel, supplies, customers, victims, employees, police officers or the Services;

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- (b) notes, reports, analysis and reviews of, and any other information derived from, any information referred to in clause (a) above or which contains or is based in whole or in part upon such information;
- (c) information designated as confidential, commercially sensitive or politically sensitive or which ought reasonably to be considered as such; and

all materials belonging to another person in respect of which the Parties owe obligations of confidentiality.

Contract	means this contract between the Authority and the Supplier for the supply of Equipment and Services in accordance with these Conditions.
Contract Change Notice	means a notice in the form as the template change control notice attached to this Contract
Contract Charge	means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Authority under this Contract, as set out in the Contract;
Contract Manager	shall have the meaning as set out in clause 4
Contract Period	means the term of this Contract from the Commencement Date until the Expiry Date.:
Control	has the meaning given to it in section 1124 of the Companies Tax Act 2010.
Critical Service Level Failure	means any instance of critical service level failure specified in the Specification
Data Controller	has the meaning set out in the Data Protection Legislation
Data Controller's Data	means any Personal Data, any special categories of personal data as referred to in Article 9(1) of the GDPR and any Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR belonging to the Data Controller
Data Processor	has the meaning set out in the Data Protection Legislation
Data Processing Details	means the description of the data Processing being carried out under the Contract, the details of which are set out in the data processing agreement with the relevant data controller
Data Protection Legislation	means the DPA 2018, the GDPR, the applied GDPR (as applied by the DPA 2018), regulations made under the DPA 2018, regulations made under section 2(2) of the European Communities Act 1972 which relate to the GDPR or Law Enforcement Directive (Directive (EU) 2016/680) and any replacement or supplementary legislation coming into effect from time to time
Data Subject	has the meaning set out in the Data Protection Legislation
Data Subject Access Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data

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Default	any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or Sub-Contractors in connection with or in relation to the subject-matter of this Contract and or a Purchase Order and in respect of which such Party is liable to the other;
Delay	means: <ul style="list-style-type: none">a) a delay in the Achievement of a Milestone by its Milestone Date;b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
Delay Payments	means the amounts payable by the Supplier to the Authority in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
Deliverables	means all documents, products, materials, items or features delivered or to be delivered by the Supplier or its agents, contractors and employees as part of or in relation to the Services at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Contract
Delivery	means as set out in clause 10 and shall include uses of the term "Delivers"
Delivery Instructions	means the instructions set out in this Contract for the provision of the Services, including any other information the Authority considers appropriate to the provision of the Services
Dispute	has the meaning given to it in clause 47.1 (Dispute Resolution Procedure)
DPA 2018	means the Data Protection Act 2018
Due Diligence Information	means any information supplied to the Supplier by or on behalf of the Authority prior to the Commencement Date;
Equipment	means the equipment or other tangible items agreed in this Contract to be purchased by the Authority from the Supplier (including any part of it)
Equipment Software	means any and all computer programs and computer software (of whatever type and in whatever form or media) installed on or supplied with the Equipment at the time of its delivery and either necessary for its operation in the manner contemplated by the Authority or otherwise referred to in the Specification or the Supplier's tender response
Expiry Date	means: <ul style="list-style-type: none">a) the end date of the Contract; or

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- b) if this Contract is terminated before the date specified in (a) above, the earlier date of termination of this Contract;

Force Majeure Event	means any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel or any other failure in the Supplier's or a sub-contractor's supply chain.
Force Majeure Notice	means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event
GDPR	means the General Data Protection Regulation (Regulation (EU) 2016/679)
General Anti-Abuse Rule	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) and any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
Equipment Specification	the specification for the Equipment that is set out by the Authority to the Supplier
Implementation Plan	means the plan set out in the Contract
Installation	means the installation of the Equipment in the designated location and into the operating environment specified by the Authority at the site and "Install" shall be interpreted accordingly
IPRs or Intellectual Property Rights	means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights
Key Contacts	means the key contact details for both the Authority and the Supplier as attached to the Contract
Key Personnel	means those individuals nominated by the Authority as being of importance to the completion or delivery of the Services
Law	means any law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body or any approval of any local authority or statutory undertaker having jurisdiction in relation to the Services or with whose systems the Services are, or are to be,

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connected, in each case from time to time, and "Laws" shall be interpreted accordingly

Licensed Authority Items	means equipment licensed to the Supplier in accordance with the Specification which is necessary for the Supplier to perform its obligations under this Contract and as reasonably agreed between the parties from time to time
Location	means the location the Services are to be delivered to and/or where relevant installed as set out in the Specification or as otherwise agreed in writing between the Authority and the Supplier
Maintenance Release	Means a release of the Supplier Software which corrects faults, adds functionality or otherwise amends or upgrades the Supplier Software, but which does not constitute a New Version
Malicious Software	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence
Material Breach	means a Default or an anticipatory Default that is serious in the widest sense of having a serious effect on the benefit which the terminating Party would otherwise derive from: (a) a substantial portion of this Contract; or (b) any of the obligations or warranties set out in this Contract, for the remainder of this Contract.
Milestone	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
Milestone Date	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
Milestone Payment	means a payment identified in the Implementation Plan to be made in respect of Achievement of the relevant Milestone;
Modification	means a Maintenance Release or a New Version
New Version	means any new version of the Supplier Software which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product
Open Source Software	means computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes

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Other Supplier	means any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware
Operating Environment	means the Authority System and the Sites
Party/Parties	means the Supplier and relevant Authority identified in this Contract
PCC	means the Police and Crime Commissioner(s) and/or Police, Fire and Crime Commissioner referred to in the Contract.
Persistent Breach	means repeated breaches of any of the terms of this Contract in such a manner as to reasonably justify the Authority's opinion that the Supplier's conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract
Personal Data	has the meaning set out in the Data Protection Legislation
Process	has the meaning set out in the Data Protection Legislation
Purchase Order	means an official purchase order for the provision of the Services placed by the Authority with the Supplier in accordance with the terms of this Contract
Purchase Order Amendment	means an issued and Authorised Purchase Order Amendment from the Authority or series of Purchase Order Amendments
Rectification Plan	means a plan agreed in accordance with clause 21 for the resolution of a Service Failure
Regulations	means the Public Contracts Regulations 2015 and "Regulation" will be interpreted accordingly
Request	has the meaning set out in the Freedom Of Information Act 2000 (FOIA), and the Environmental Information Regulations 2004 (EIR)
Services	means the services, including without limitation the Equipment, Software Deliverable, Deliverables, Installation, and consequential connection, testing, commissioning or training to be provided by the Supplier under this Contract as set out in the Services Specification
Service Credits	means the sum attributable to a Service Failure as set out in the Specification
Service Failure	means a failure by the Supplier to deliver any part of the Services in accordance with clause 18 or the Service Levels
Service Levels	means those levels of delivery and performance set out in the Equipment and Services Specification or any service level agreement attached to this Contract
Services Specification	means the description or specification for Services that is set out by the Authority to the Supplier
Service Variation	means a variation to all or part the Services in accordance with clause 17
Sites	means

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- (a) those areas at the Location that the Supplier may be granted access to by the Authority for the purposes of the Services; or
- (b) any premises from, to or at which the Supplier manages, organises or otherwise directs the provision or the use of the Services; or
- (c) where any part of the Supplier System is situated; or
- (d) any physical interface with the Authority System takes place

SME means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises

Software Deliverable means any Specially Written Software and/or Supplier Software

Software Use means in relation to Equipment Software, includes the right to use the Equipment Software on the Equipment and any back-up or standby equipment, to make such copies as are necessary to use the Equipment Software on each part of the Equipment and to make copies for back-up purposes as well as all other ancillary rights implied by law

Specially Written Software means any software created by the Supplier (or a third party on behalf of the Supplier) specifically for the purposes of this Contract

Specification means the Services Specification as attached to the Contract.

Special Conditions means the special conditions attached to the Contract if any

Sub-Contract means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide:

- a) the Services or any part thereof; or
- b) facilities and/or, services necessary for the provision of the Services or any part thereof; or
- c) is responsible for the management, direction or control of the provision of the Services or any part thereof

Sub-Contractor means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person

Sub-processor means any third party appointed to process Personal Data on behalf of the supplier related to this Contract

Supplier Background IPR means:

- (a) IPRs owned by the Supplier before the commencement of this Contract, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in

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physical or electronic media containing the Supplier's know-how or generic business methodologies: and/or

(b) IPRs created by the Supplier independently of this Contract
But excluding IPRS owned by the Supplier subsisting in the Supplier Software.

Supplier IPR Claim	means any claim of infringement or alleged infringement (including the defence of such infringement alleged infringement) of any IPR used or required to be used in connection with the Services or as otherwise provided by the Supplier (or to which the Supplier has provided access) to the Authority in the fulfilment of its obligations
Supplier Software	means software which is proprietary to the Supplier (or an Affiliate of the Supplier), including software which is or will be used by the Supplier for the purposes of providing the Services or which will need to be used in relation to the Services, and any Modifications
Supplier System	means the information and communications technology system used by the Supplier in performing the Services including the Supplier Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System)
Third Party IPR	means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;
Third Party Software	means any software identified as such in the Contract together with all other software which is not listed in the Contract which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which is or will be used by the Supplier for the purposes of providing the Services)
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
VCSE	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives
Working Day	means any day other than a Saturday, Sunday or public holiday in England and Wales

1.2 **Construction**

- 1.2.1 In this Contract unless the context otherwise requires, capitalised expressions shall have the meanings set out in clause 1.1 or the relevant Special Conditions in which that capitalised expression appears.
- 1.2.2 If a capitalised expression does not have an interpretation in clause 1.1 or relevant Special Conditions, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

- 1.3 In these Conditions:
- 1.3.1 the masculine gender includes the feminine and neuter and vice versa;
 - 1.3.2 the singular includes the plural and vice versa;
 - 1.3.3 references to persons include bodies corporate, unincorporated associations and partnerships;
 - 1.3.4 the sections attached to this Contract and these Appendices to these Conditions form part of this Contract and shall have effect as if set out in full in the body of this Contract. Any reference to this Contract includes the sections and Appendices;
 - 1.3.5 references to clauses, paragraphs, appendices and sections are to clauses and paragraphs of and appendices and sections to this Contract;
 - 1.3.6 the headings of clauses and paragraphs are for convenience only and shall be disregarded in construing this Contract;
 - 1.3.7 any reference to a statute or statutory provision includes a reference to any modification, consolidation or re-enactment of the provision for in force from time to time and all and any subordinate legislation in force from time to time made under it;
 - 1.3.8 any obligation in this Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce to that thing being done;
 - 1.3.9 general words shall not be given a restrictive interpretation by reasons of their being preceded or followed by words indicating a particular class of acts, matters or thing;
 - 1.3.10 a reference to writing or writing does not include email or fax.

2 DUE DILIGENCE

- 2.1 The Supplier acknowledges that:
- 2.1.1 the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Contract;
 - 2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information and that it has entered into this Contract in reliance on its own due diligence alone;
 - 2.1.3 it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Commencement Date) of all relevant details, including but not limited to, details relating to the:
 - (a) suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Commencement Date) future Operating Environment;
 - (b) operating processes and procedures and the working methods of the Authority;
 - (c) ownership, functionality, capacity, condition and suitability for use in the provision of the Services of the Authority Assets; and
 - (d) existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in

the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Services; and

- 2.1.4 it has advised the Authority in writing of:
- (a) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;
 - (b) the actions needed to remedy each such unsuitable aspect; and
 - (c) a timetable for and the costs of those actions.
- 2.1.5 the Supplier shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
- (a) unsuitable aspects of the Operating Environment;
 - (b) misinterpretation of the requirements of the Authority in the Contract; and/or
 - (c) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

3 BASIS OF CONTRACT

- 3.1 The Authority appoints the Supplier on a non-exclusive and independent contractor basis to provide the Services in accordance with this Contract.
- 3.2 This Contract shall commence on the Commencement Date and the term of this Contract shall be the Contract Period.
- 3.3 All Purchase Orders issued by the Authority to the Supplier in relation to the Contract shall be fulfilled in accordance with the terms set out in the Contract.
- 3.4 The Supplier acknowledges that the Authority has relied on all information provided in writing in their tender submission in awarding this Contract and warrants that the information, including, but not limited to, the tender response and clarification letters attached to this Contract, is accurate and valid and will notify the Authority of any matters which may arise during the term of this Contract that would cause the Supplier's responses to change. Any failure to notify the Authority in regard to the obligation in this clause shall constitute a Material Breach and the Authority reserves the right to terminate this Contract if the change in circumstances notified to the Authority under the terms of this Contract are of such a significant gravity that in the Authority's reasonable opinion this Contract would not have been awarded and/or the current status of the Supplier is such that the Authority is unable to continue the contractual relationship.
- 3.5 The Authority shall have the right, before delivery, to send the Supplier an Purchase Order Amendment in regard to the Services adding to, deleting or modifying the requirements. If the Purchase Order Amendment will cause a change to the Contract Charge or Milestone Date then the Supplier must suspend performance of the Purchase Order and notify the Authority without delay of the new Contract Charge and Milestone Date at the same level of cost and profitability as the original Contract Charge. The Supplier must allow the Authority 10 (ten) Working Days to consider any new Contract Charge and Milestone Date. The Purchase Order Amendment shall take effect when, but only if, the Authorised Person accepts in writing the new Contract Charge and Milestone Date within the time the Supplier stipulates. If the Authorised Person fails to confirm the Purchase Order Amendment within the time the Supplier stipulates then

performance of this Contract shall immediately resume as though the said Purchase Order Amendment had not been issued (except that the Authority may still exercise the right of cancellation in accordance with clause 3.6). Each Purchase Order Amendment shall have precedence over any earlier Purchase Order Amendment.

- 3.6 In addition to the Authority's rights of cancellation of a Purchase Order under these Conditions, the Authority may cancel any Purchase Order and any Purchase Order Amendment thereto in relation to the Services at any time by sending the Supplier a notice of cancellation. The Supplier will comply with any written instructions that the Authority may issue with regard to the Services.
- 3.7 If there is any ambiguity or inconsistency in or between these terms and conditions of the Contract and the Special Conditions, the Special Conditions will prevail.

4 CONTRACT MANAGEMENT AND MANAGEMENT INFORMATION

- 4.1 The Supplier and the Authority shall keep each other updated of any changes in the Key Contacts.
- 4.2 The Supplier shall nominate a Contract Manager who shall have sufficient authority to ensure that required Service Levels are met, to ensure sufficient resources are allocated to this Contract and any Purchase Order, and to maintain performance to the Specification, to pro-actively coordinate and communicate relevant orders and to provide comprehensive support and links between the Authority and the Supplier, including sales support, information and advice on all of the Equipment and Services. The Contract Manager shall be the prime contact between the Supplier and the Authority and any notice, communication, information or instruction given or made to or by this Contract Manager shall be deemed given to or received by the Supplier. It shall be the responsibility of this Contract Manager to ensure all staff involved in this Contract or any Purchase Order are fully aware of their obligations.
- 4.3 Where applicable, the Supplier shall, at no charge to the Authority, submit complete and accurate management information at such reasonable times as the Authority may request in such form as may be agreed between the Parties at the Commencement Date and as varied from time to time throughout the duration of this Contract and the Supplier shall:
 - 4.3.1 operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver the agreed management information to the Authority; and
 - 4.3.2 permit the Authority to share such management information with any other crown bodies or third parties in connection with their normal operational business.

5 REPRESENTATIONS AND WARRANTIES

- 5.1 The Supplier acknowledges that Authority has entered into this Contract in reliance upon the Supplier's expertise in selecting and supplying Deliverables fit to meet Authority's business requirements.
- 5.2 Each Party represents and warranties that:
 - 5.2.1 it has full capacity and authority to enter into and to perform this Contract;
 - 5.2.2 this Contract is executed by its duly authorised representative;
 - 5.2.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Contract; and

- 5.2.4 its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or Law).
- 5.3 The Supplier represents and warrants that:
- 5.3.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
 - 5.3.2 it has all necessary consents and regulatory approvals to enter into this Contract;
 - 5.3.3 the Deliverables will conform in all material aspects to the Specification subject to the Acceptance Criteria and be free from defects;
 - 5.3.4 the Software Deliverables and the media on which the Software Deliverables are delivered are free from defects, viruses and other Malicious Software;
 - 5.3.5 all components of the Specially Written Software shall:
 - (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in the Specification; and
 - (c) not infringe any Intellectual Property Rights;
 - 5.3.6 it has not included or used any undisclosed Open-Source Software or any libraries or code licensed from time to time under the General Public Licence (as those terms are defined by the Open Source Initiative or the Free Software Foundation) or anything similar in, or in the development of, the Licenced Software, nor does the Licenced Software operate in such a way that it is compiled with or linked to any of the foregoing
 - 5.3.7 its execution, delivery and performance of its obligations under this Contract does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a default under any agreement by which it is bound;
 - 5.3.8 as at the Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation to its tender submitted to the Authority and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Contract;
 - 5.3.9 it has and shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPR, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Authority which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Services by the Authority;
 - 5.3.10 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or trojans, spyware or other malware) into systems, data, software or the Authority's Confidential Information (held in electronic form) owned by or under the control of, or used by, the Authority;

- 5.3.11 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;
 - 5.3.12 it is not affected by any proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and
 - 5.3.13 for the Contract Period and for a period of twelve (12) months after the termination or expiry of this Contract, the Supplier shall not employ or offer employment to any staff of the Authority which have been associated with the provision of the Services without written approval or the prior written consent of the Authority, which shall not be unreasonably withheld. However this clause 5.3.13 shall not preclude the Supplier's rights to (i) make generalised searches for employees by the use of advertisements in the media (including by any recruitment agency), (ii) hire any employee of the Authority who approaches the Supplier on an unsolicited basis; or (iii) solicit for employment or hire any such employee who ceases to be employed by the Authority.
- 5.4 Each of the representations and warranties set out in clauses 5.2 and 5.3 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Contract.
- 5.5 If at any time a Party becomes aware that a representation or warranty given by it under clauses 5.2 and 5.3 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
- 5.6 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of breach of that provision by the Supplier which constitutes a Material Breach.

6 IMPLEMENTATION PLAN

6.1 Formation of Implementation Plan

- 6.1.1 Where the Parties agreed in the Contract that an Implementation Plan (or parts thereof) shall be provided in draft by the Supplier prior to the commencement of the provision of the Services, the Supplier's draft must contain information at the level of detail necessary to manage the implementation stage effectively and as the Authority may require. The draft Implementation Plan shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 6.1.2 The Supplier shall submit the draft Implementation Plan to the Authority for written approval (such decision of the Authority to Approve or not shall not be unreasonably delayed or withheld) within such period as specified by the Authority in the Contract.
- 6.1.3 The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

6.1.4 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Authority as set out in the Contract and report to the Authority on such performance.

6.2 Control of Implementation Plan

6.2.1 Subject to clause 6.2.2, the Supplier shall keep the Implementation Plan under review in accordance with the Authority's instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the provision of the Services. The Authority shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

6.2.2 Changes to the Milestones (if any), Milestone Payments (if any) and Delay Payments (if any) shall only be made in accordance with clause 17 (Service Variation) and provided that the Supplier shall not attempt to postpone any of the Milestones using the procedure set out in clause 18 or otherwise (except in the event of a Authority Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).

6.2.3 Where so specified by the Authority in the Implementation Plan or the Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise.

6.3 Rectification of Delay in Implementation

6.3.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract:

(a) it shall:

- (i) notify the Authority as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay; and
- (ii) include in its notification an explanation of the actual or anticipated impact of the Delay; and
- (iii) comply with the Authority's instructions in order to address the impact of the Delay or anticipated Delay; and
- (iv) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and

(b) if the Delay or anticipated Delay relates to a Milestone in respect which a Delay Payment has been specified in the Implementation Plan, clause 6.4 (Delay Payments) shall apply.

6.4 Delay Payments

6.4.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Authority such Delay Payments (calculated as set out by the Authority in the Implementation Plan) and the following provisions shall apply:

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- (a) the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Authority as a result of the Supplier's failure to Achieve the corresponding Milestone;
- (b) Delay Payments shall be the Authority's exclusive financial remedy for the Supplier's failure to Achieve a corresponding Milestone by its Milestone Date except where:
 - (i) the Authority is otherwise entitled to or does terminate this Contract pursuant to clause 0 (Termination) except clause 31.1; or
 - (ii) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Contract for the purposes of this sub-clause, commencing on the relevant Milestone Date;
- (c) the Delay Payments will accrue on a daily basis from the relevant Milestone Date and shall continue to accrue until the date when the Milestone is Achieved (unless otherwise specified by the Authority in the Implementation Plan);
- (d) no payment or concession to the Supplier by the Authority or other act or omission of the Authority shall in any way affect the rights of the Authority to recover the Delay Payments or be deemed to be a waiver of the right of the Authority to recover any such damages unless such waiver complies with clause 56.5 (Waiver) and refers specifically to a waiver of the Authority's rights to claim Delay Payments; and
- (e) the Supplier waives absolutely any entitlement to challenge the enforceability in whole or in part of this clause 6.4.1 and Delay Payments shall not be subject to or count towards any limitation on liability set out in clause 29 (Liability).

7 SUPPLY OF EQUIPMENT

- 7.1 The Supplier warrants and represents to the Authority that:
 - 7.1.1 the Equipment will conform with the quality, description and other particulars of the Equipment stated in the Equipment Specification and shall remain so for such period as is agreed with the Authority after the Acceptance Period;
 - 7.1.2 the Equipment will conform to all samples, drawings, descriptions and specifications provided to the Authority by the Supplier;
 - 7.1.3 the Equipment will conform with all standards referred to on any part of the Equipment and in any product packaging and/or documentation in, with or in relation to which the Equipment is supplied;
 - 7.1.4 the Equipment will be supplied in accordance with all applicable terms and conditions of this Contract;
 - 7.1.5 the Equipment will be of satisfactory quality and fit for any intended uses expressly or impliedly made known to the Supplier, and will be free from all defects in materials, workmanship and installation for a period of twelve (12) months from the date of delivery;
 - 7.1.6 the Equipment will comply with all performance and other specifications stated in the Equipment Specification, and all applicable legislation for the time being in force;
 - 7.1.7 unless the Authority and the Supplier have agreed in writing (signed on behalf of the Authority) additional or different conditions for any software before or at the same time as this Contract, the Supplier has and will continue to have the full right

and title to license the Authority and hereby grants to the Authority without further charge the irrevocable right and licence to the Software Use;

- 7.1.8 where the Equipment Software is licensed directly to the Authority by the Supplier's licensor, the Supplier will procure for the Authority rights in all respects no less favourable than those it would have granted had it granted the rights directly under the express licence at clause 7.1.7;
- 7.1.9 at the time of installation, the Equipment Software will be free from viruses, worms, time locks or anything else that would impair performance of the Equipment Software as it might reasonably be expected to operate on the Equipment;
- 7.1.10 the Supplier will allow the Authority, at any time within twelve (12) months from the date of delivery of the Equipment, to the extent not already done under or with this Contract, to enter with the Supplier into a maintenance agreement for the Equipment (together with any relevant Software) on terms satisfactory to the Authority (including without limitation as to price and duration);
- 7.1.11 where, at any time, the Authority has not entered into a maintenance agreement of the kind referred to at clause 7.1.10, it be entitled to maintain the Equipment and any Equipment Software itself, or by or through any third party, and in that case the definition of Software Use will extend to permitting such maintenance of the Equipment Software;
- 7.1.12 it will provide to the Authority high quality user manuals and training and other documentation for the Equipment and the Equipment Software without further charge in such form and quantities as the Authority may reasonably stipulate at any time before 7 days after delivery.

7.2 The Authority's rights under this Contract are in addition to the statutory terms implied in favour of the Authority by the Sale of Goods Act 1979 and any other statute.

7.3 The provisions of clause 7 shall survive any delivery, inspection, acceptance, payment or performance pursuant to this Contract and shall extend to any replacement, repaired, substitute or remedial equipment provided by the Supplier.

8 QUANTITIES

Unless the Authority has agreed otherwise in writing, the Supplier shall deliver the exact specified quantities of items comprised in the Equipment in accordance with the Equipment Specification. Without affecting its other rights and remedies, the Authority reserves the right to reject incomplete deliveries and to return excess quantities at the Supplier's risk and expense.

9 INSPECTION AND TESTING

9.1 The Supplier shall:

- 9.1.1 carefully test and inspect the Equipment before delivery to ensure that it complies with this Contract; and
- 9.1.2 if so requested by the Authority, give the Authority reasonable advance notice of such tests (which the Authority shall be entitled to attend).

9.2 The Authority reserves the right to call for certificates or test certificates for the Equipment at any stage of manufacture or assembly. Such certificates shall clearly state the Authority's order numbers and any item or equipment numbers.

9.3 If, as a result of any inspection or test, the Authority finds that the Equipment or any items comprised within it do not comply with this Contract, or are unlikely to comply with it on completion of manufacture, processing or performance, the Authority may inform the Supplier, and the Supplier shall take such steps as are necessary to ensure compliance.

10 DELIVERY

10.1 The Supplier shall deliver the Equipment and Deliverable on the date specified in the Purchase Order or the Implementation Plan or, if no such date is specified, within twenty eight (28) days of the date of the Purchase Order. Time is of the essence as to the delivery of the Equipment and Deliverable under this Contract and if the Supplier does not comply with its obligations in the preceding sentence, the Authority may, without prejudice to any other rights or remedies that it may have:

10.1.1 cancel this Contract in whole or in part without incurring any liability to the Supplier;

10.1.2 refuse to accept any subsequent delivery of items comprised in the Equipment and/or Deliverable which the Supplier attempts to make;

10.1.3 purchase substitute items elsewhere;

10.1.4 hold the Supplier accountable for any loss and additional costs incurred; or

10.1.5 do any combination of the above.

10.2 The Equipment shall be properly packed and secured in such manner as to enable it to reach its destination in good condition. No charge shall be made for wrapping, packing, cartons, boxes, crating or containers, and the Authority shall not be responsible for returning any such materials.

10.3 The Equipment shall be delivered by the Supplier carriage free to the place of delivery specified in the Equipment Specification, or as otherwise specified by the Authority by means of advice notes quoting the Authority's Purchase Order/reference number. The Equipment shall be received at the place of delivery, subject to the Authority's inspection and approval. Any Equipment which the Authority rejects as not conforming with this Contract shall be returned at the Supplier's risk and expense.

10.4 Unless the Authority and the Supplier have, before or at the same time as this Contract, agreed in writing (signed on behalf of the Authority) additional conditions regarding preparation of or environmental requirements at the site at which the Equipment is to be installed, the Supplier acknowledges and agrees that the Equipment is suitable to be installed and used at the premises at which the Authority intends to use it and that there are no additional conditions regarding site preparation or environmental requirements.

10.5 In relation to installation and acceptance tests:

10.5.1 except where clause 7 applies, the Supplier shall, without further charge to the Authority, install the Equipment at the premises at which the Authority intends to use it and subject the Equipment to its standard installation and acceptance tests;

10.5.2 if the Equipment passes those tests, the supplier will issue an acceptance certificate to that effect to the Authority, but receipt by the Authority of such an acceptance certificate will not constitute legal acceptance by the Authority;

10.5.3 if the Equipment does not (on any attempt) pass those tests, the Supplier will (without affecting the Authority's other rights and remedies) promptly and at its expense carry out all necessary remedial work and re-submit the Equipment to the tests as set out in clause 10.5.1 and clause 10.5.2;

- 10.5.4 if all the tests have not been successfully completed within [NUMBER] days after delivery, the Authority shall have the same rights as it would have had if the Supplier had not performed its obligations under clause 10.5.1; and
 - 10.5.5 if the Authority and the Supplier have, before or at the same time as this Contract, agreed otherwise in writing (signed on behalf of the Authority), then the Authority (itself or through a third party) will be responsible for installing the Equipment and clause 10.5.1 to 10.5.2 (inclusive) shall not apply.
- 10.6 Notwithstanding clause 10.5, the Authority shall not be deemed to have accepted the Equipment until it has had 7 days to inspect it after delivery. The Authority may also reject the Equipment as though it had not been accepted for 3 months after any latent defect in the Equipment has become apparent.

11 RISK AND PROPERTY

- 11.1 The Equipment shall be at the risk of the Supplier until delivery to the Authority at the place of delivery specified in the Equipment Specification, or as otherwise specified by the Authority in accordance with clause 10.3. The Supplier shall off-load the Equipment at its own risk as directed by the Authority.
- 11.2 Ownership of the Equipment shall pass to the Authority on completion of delivery (including off-loading) in accordance with the Equipment Specification, except that if the Equipment is paid for before delivery ownership shall pass to the Authority once payment has been made. The passing of ownership in the Equipment is without prejudice to any right of rejection to which the Authority may be entitled under this Contract or otherwise.

12 ACCEPTANCE TESTING AND ACCEPTANCE CRITERIA

- 12.1 The Acceptance Tests shall apply and before delivery of any Deliverables to Authority under this Contract, the Supplier shall ensure that such Deliverables comply with the applicable Acceptance Criteria.
- 12.2 Where a Deliverable needs to be provided to Authority by a Milestone Date such Deliverable must comply with the applicable Acceptance Criteria on or before such Milestone Date.
- 12.3 During the Acceptance Period, Authority may undertake, or may procure a third party to undertake on its behalf, such testing of the Deliverables as it deems necessary to determine compliance with the Acceptance Criteria for it, including (where applicable) the Acceptance Tests.
- 12.4 The Supplier shall provide Authority with such assistance as Authority shall reasonably request for the purposes of reviewing any Deliverables.
- 12.5 Upon completion of such Acceptance Tests, or upon expiration of the Acceptance Period, whichever occurs first in time, Authority shall notify the Supplier in writing that either:
 - 12.5.1 the Deliverables conform to the Acceptance Criteria; or
 - 12.5.2 the Deliverables do not conform to the Acceptance Criteria.
- 12.6 In the event that Authority notifies the Supplier that the Deliverables conform to the Acceptance Criteria in accordance with clause 12.5 above, Authority shall be deemed to have accepted such Deliverables on the date of such notice.
- 12.7 Subject to clauses 12.10 and 12.11, in the event that Authority notifies the Supplier that the Deliverables do not conform to the applicable Acceptance Criteria, the notice served by

Authority shall briefly describe the elements of the Deliverables which do not conform (the "Defects").

- 12.8 Subject to clauses 12.10 and 12.11, upon receipt of a notice from Authority detailing the Defects in accordance with clause 12.7 above, the Supplier shall, at its sole cost and expense, undertake all work required to ensure that the Defects are fixed or no longer present, and shall resubmit such Deliverables for review as soon as reasonably practicable (or in accordance with any specific timescales required by Authority).
- 12.9 Subject to clauses 12.10 and 12.11, if the Supplier resubmits any Deliverables in accordance with clause 12.8 above, the Parties shall repeat the process set out in the above clauses for one further round, after which point, if the Deliverables have not been accepted by Authority, Authority may, at its sole discretion (which does not have to be reasonable):
- 12.9.1 accept the Deliverables notwithstanding the remaining Defects, but subject to a renegotiation with the Supplier as to the applicable Contract Charge;
 - 12.9.2 reject the Deliverables and suspend or terminate this Contract (in whole or in part) immediately upon giving notice in writing to the Supplier; or
 - 12.9.3 reject the Deliverables and suspend or terminate this Contract (in whole or in part) immediately upon giving notice in writing to the Supplier.
- 12.10 Notwithstanding anything to the contrary, where a Deliverable needs to comply with the applicable Acceptance Criteria by a Milestone Date and such Deliverable has not been accepted by Authority by the Milestone Date, Authority may, at its discretion (which does not have to be reasonable):
- 12.10.1 consent to receiving the Deliverables notwithstanding the remaining Defects, but subject to a renegotiation with the Supplier as to the applicable Contract Charge;
 - 12.10.2 reject the Deliverables and suspend or terminate this Contract (in whole or in part) immediately upon giving notice in writing to the Supplier; or
 - 12.10.3 reject the Deliverables and suspend or terminate this Contract (in whole or in part) immediately upon giving notice in writing to the supplier.
- 12.11 Acceptance is to be treated as a pre-condition to the Supplier being entitled to invoice for the relevant Deliverable. Acceptance will not absolve the Supplier's obligations, duties and liabilities arising under or in connection with this Contract.

13 LOCATIONS

- 13.1 Subject to satisfactory agreement between the Parties on price, the Authority reserves the right to increase or reduce the number of Locations under this Contract at any time during this Contract Period.
- 13.2 Without prejudice to any other right or remedy, the Authority will endeavour to give as much notice as possible of increases or reductions to the number of Locations under this Contract, although a minimum period of time is not specified in these Conditions.
- 13.3 From the Commencement Date the Authority shall grant a non-exclusive and revocable licence to the Supplier to enter upon the Locations for the sole purpose of providing the Services to the Authority, subject to the clauses below for the term of this Contract. The licence thereby granted shall be subject to the conditions of this Contract and shall not be deemed to create a relationship of Landlord and Tenant as between the Authority and the Supplier.

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- 13.4 When required, the Supplier and their employees, Sub-Contractors and their employees shall comply with any security requirements including a right to search when entering or leaving the Locations and being escorted in certain areas. The Authority reserves the right to remove from the Locations anyone not complying with the Authority's security arrangements or suspected of being under the influence of alcohol or any substance which has the effect of impairing performance.
- 13.5 The Supplier shall comply, and shall ensure that its employees comply with, the requirements of relevant health and safety and other relevant legislation, including regulations and codes of practice issued thereunder, and with the Authority's own policies and procedures.
- 13.6 The Supplier shall at all times maintain a specific health and safety at work policy relating to the employment of his own staff whilst carrying out their duties in relation to this Contract.
- 13.7 The Supplier will be required to nominate a health and safety representative to liaise with the Authorised Person on all health and safety matters.
- 13.8 The Supplier's staff shall follow a system of accident recording in accordance with the Authority's accident recording procedure and the Supplier's own accident reporting procedures.
- 13.9 All notifiable accidents shall immediately be brought to the attention of the Authorised Person.
- 13.10 The Supplier shall ensure the co-operation of its employees in all prevention measures designed against fire, or any other hazards, and shall notify the Authority of any change in the Supplier's working practices or other occurrences likely to increase such risks or to cause new hazards.
- 13.11 The Supplier's employees, Sub-Contractors and their employees and any persons associated with the Supplier shall be trained to recognise and report situations which involve an actual or potential hazard including:
- 13.11.1 danger of personal injury to any person on the Sites;
 - 13.11.2 fire risks and fire precautions and procedures including attendance at fire lectures/drills in accordance with the Authority's policies and procedures;
 - 13.11.3 security;
 - 13.11.4 risk management; and
 - 13.11.5 major incidents.
- 13.12 The Supplier shall at any time ensure that the equipment used and procedures operated conform to the Authority's fire policy.
- 13.13 The Supplier shall co-operate with the Authority's fire, security and safety advisors and shall comply with their reasonable instructions.
- 13.14 To the extent applicable, the Supplier will comply with the Control of Substances Hazardous to Health (COSHH) Regulations (as amended) and COSHH hazard management and control.
- 13.15 The Authority's decision as to whether any person is to be refused access to any Premises occupied by or on behalf of the Authority shall be final and conclusive and the Supplier shall replace promptly any such person to ensure that its requirements under this Contract are met.
- 13.16 The supplier shall bear the cost of or cost arising from any notice, instructions or decision of the Authority under this clause 13.

14 SITES

- 14.1 To the extent needed in order to provide the Services in accordance with this Contract, the Authority shall during this Contract Period permit the Supplier to use only in connection with the provision of the Services certain Sites at the Location as set out in the Specification.
- 14.2 The Supplier shall use the Sites only in connection with the provision of the Services and shall ensure that the Supplier's staff uses the Sites only for that purpose.
- 14.3 The Supplier shall ensure that the Sites have a clean, tidy and professional appearance at all times.
- 14.4 The permission given to the Supplier to use the said Sites is personal to the Supplier and the Supplier's staff and shall cease immediately if this Contract ceases to be in force. Only the Supplier's own staff and persons making deliveries to the Supplier in connection with the provision of the Services may enter or use any part of the Sites.
- 14.5 For the avoidance of doubt it is hereby declared that the permission to enter and use the said Sites is not the grant of a tenancy of any part of the Sites. The Authority retains full possession and control over such Sites at all times and the Supplier shall not receive exclusive possession of, or any estate or interest in, any such Sites.
- 14.6 The Authority reserves the right at all times to permit third parties to use the Sites, subject to the rights granted to the Supplier pursuant to this Contract. The Supplier shall co-operate with such others as the Authority may reasonably require.
- 14.7 Unless otherwise agreed, the Supplier shall keep the said Sites clean, tidy and properly secure.
- 14.8 The Authority will provide a sufficient supply of water, gas and electricity to operate equipment used to provide the Services.
- 14.9 The Authority will arrange for the disposal of refuse from authorised collection points as set out in the Specification.
- 14.10 The Supplier will not alter or modify any part of the Sites without the written permission of the Authorised Officer, unless alteration or modification is part of the Services to be provided by the Supplier.

15 SUPPLY OF SERVICES

- 15.1 The Supplier acknowledges and agrees that the Authority relies on the skill and judgment of the Supplier in the provision of the Services and the performance of its obligations under this Contract.
- 15.2 The Supplier shall from the Commencement Date and for the duration of the Contract Period provide the Services to the Authority in accordance with the terms of this Contract.
- 15.3 The Supplier shall meet any Milestone Dates for the Services specified in the Contract or notified to the Supplier by the Authority.
- 15.4 The Supplier shall:
 - 15.4.1 provide the Services on the date(s) specified in the Contract and the Milestone Dates (if any). Such provision shall include compliance with the obligation on the Supplier set out in clause 6 (Implementation Plan);
 - 15.4.2 deliver the Services in a proportionate and efficient manner;
 - 15.4.3 ensure that the Services

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- (a) comply in all respects with any description of the Services in the Contract; and
 - (b) are supplied in accordance with the provisions of this Contract.
- 15.4.4 co-operate with the Authority in all matters relating to the Services, and comply with all reasonable instructions of the Authority;
- 15.4.5 perform the Services with the best care, skill and diligence in accordance with:
 - (a) Good Industry Practice;
 - (b) the Standards;
 - (c) the Security Policy;
 - (d) the ICT Policy (if so required by the Authority); and
 - (e) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of clauses 15.4.5(a) to 15.4.5(d);
- 15.4.6 subject to clause 17 (Service Variation), obtain, and maintain throughout the duration of this Contract, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
- 15.4.7 ensure that any Documentation and training provided by the Supplier to the Authority are comprehensive, accurate and prepared in accordance with Good Industry Practice;
- 15.4.8 co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the Expiry Date for any reason, to enable the timely transition of the supply of the Services (or any of them) to the Authority and/or to any Replacement Supplier;
- 15.4.9 provide the Authority with such assistance as the Authority may reasonably require during the Contract Period in respect of the supply of the Services;
- 15.4.10 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- 15.4.11 replace promptly any of its employees who, the Authority shall have reasonably decided have failed to carry out their duties with reasonable skill and care with another person with the necessary training and skills to meet the requirements of this Contract;
- 15.4.12 ensure the Services and the Deliverables will conform with all descriptions and specifications set out in the Service Specification and shall be fit for any purpose expressly or impliedly made known to the Supplier by the Authority;
- 15.4.13 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 15.4.14 use the best quality Equipment, materials, standards and techniques, and ensure that the Deliverables, and all Equipment and materials supplied and used in the

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- Services or transferred to the Authority will be free from defects in workmanship, installation and design;
- 15.4.15 obtain and at all times maintain all necessary licences and consents and comply with all applicable Laws;
 - 15.4.16 hold all materials, equipment and tools, drawings, specifications and data supplied by the Authority to the Supplier (“**the Authority’s Materials**”) in safe custody at its own risk, maintain the Authority’s Materials in good condition until returned to the Authority and not dispose of or use the Authority’s Materials other than in accordance with the Authority’s written instructions or authorisation;
 - 15.4.17 assign to the Authority, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Authority, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Authority may notify from time to time to the Supplier;
 - 15.4.18 gather, collate and provide such information and co-operation as the Authority may reasonably request for the purposes of ascertaining the Supplier’s compliance with its obligations under this Contract;
 - 15.4.19 not do or omit to do anything which may cause the Authority to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Authority may rely or act on the Services; and
 - 15.4.20 provide the Services via the Key Personnel (if any) who shall not be released from providing the Services to the Authority, except for reason of sickness, maternity leave, paternity leave, termination of employment or because the Authority has requested they be removed, or the element of the Service in respect of which the individual was engaged has been completed to the Authority’s satisfaction or other extenuating circumstances explained to the Authority. Any replacements for the Key Personnel shall be subject to the agreement of the Authority and such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services. The cost of effecting such replacement shall be borne by the Supplier.
- 15.5 The Supplier shall provide general advice free of charge, in so far as telephone or e-mail can provide this quickly and easily. If detailed consideration is required then an additional charge may be agreed with the Authority.
- 15.6 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier’s personnel also do, or refrain from doing, such act or thing.
- 15.7 The Supplier shall continue to perform all of its obligations under this Contract and shall not suspend the provision of the Services, notwithstanding:
- 15.7.1 any withholding or deduction by the Authority of any sum due to the Supplier pursuant to the exercise of a right of the Authority to such withholding or deduction under this Contract;
 - 15.7.2 the existence of an unresolved Dispute; and/or

15.7.3 any failure by the Authority to pay any Contract Charges.

16 MODIFICATIONS

- 16.1 The Supplier shall promptly inform Authority of any New Versions and shall offer to sell such New Versions to Authority on the terms on which they are generally made available to the Supplier's customers by the Supplier.
- 16.2 The Supplier will provide Authority with all Maintenance Releases generally made available to its customers.
- 16.3 The Supplier warrants that no Maintenance Release will adversely affect the then existing facilities or functions of the Supplier Software.
- 16.4 In respect of any Modification, the Supplier shall notify Authority in advance of any Modification and shall deploy it on Authority's equipment following receipt of Authority's acceptance in accordance with clause 12 of the Conditions of this Contract.
- 16.5 The Authority may reject any Modification delivered by the Supplier, by written notice, within three months of delivery, if tests carried out by the Authority establish on reasonable grounds that its use would result in any diminution of the performance or functionality of the Supplier Software.
- 16.6 Upon such rejection:
- 16.6.1 the Supplier shall either correct the Modification and re-issue it or withdraw it;
 - 16.6.2 in the case of a Maintenance Release, the Authority may within a reasonable time require the Supplier to supply, free of charge, such additional services as are required to rectify any defect in the Supplier Software which the Maintenance Release was intended to rectify; or
 - 16.6.3 in the case of a New Version, the Authority may reject the New Version and recover any sums which it may have paid to the Supplier in respect thereof.

17 SERVICE VARIATION

- 17.1 Subject to the provisions of this clause 17, either Party may request a Service Variation.
- 17.2 Where the Authority requests a Service Variation it shall notify the Supplier in writing (by way of Contract Change Notice if appropriate) and give the Supplier sufficient information to assess the extent and effect of the Service Variation, as follows:
- 17.2.1 where the request relates to an increase in the Contract Charge to be paid by the Authority the Supplier shall respond within 15 Working Days demonstrating the necessity for any change to the Contract Charge for those services.
 - 17.2.2 when the request relates to a decrease in the Services or the Contract Charge to be paid by the Authority the Supplier will respond within 15 Working Days showing the effect of the reduction along with such supporting evidence that the Authority shall require.
- 17.3 Where the Supplier requests a Service Variation it shall provide the Authority with sufficient information to assess the extent and effect of the Service Variation including demonstrating the necessity for any change to the Contract Charge.
- 17.4 Once the other Party has had the reasonable period as requested by the requesting Party to consider the Service Variation requested each shall notify the others of their decision to accept or reject the Service Variation request.

- 17.5 If the Parties agree any Service Variation they shall confirm the same in writing and amend this Contract accordingly by way of Contract Change Notice if appropriate. Each Contract Change Notice should be dated and sequentially numbered.
- 17.6 In the event that the Parties are unable to agree any Service Variation or the Supplier has not responded to the Authority's request for a Service Variation within the reasonable period referred to in clause 17.4, the Authority may;
- 17.6.1 allow the Supplier to fulfil its obligations under this Contract without the variation;
or
 - 17.6.2 terminate all or part of the Service with immediate effect if the Authority reasonably considers the Service Variation to be critical to delivery of this Contract.

18 SERVICE LEVELS AND SERVICE CREDITS

- 18.1 The Supplier shall at all times during the Contract Period ensure that the Services meet or exceed the Service Levels.
- 18.2 The Supplier shall provide the Authority with a monthly report detailing its performance in respect of each of the Service Levels if requested by the Authority. Such report shall contain the following information in respect of the preceding month ("**Service Period**"):
- 18.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 18.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 18.2.3 any Critical Service Level Failures and details in relation thereto;
 - 18.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 18.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 18.2.6 such other details as the Authority may reasonably require from time to time.
- 18.3 If there is a Service Failure, the Supplier shall:
- 18.3.1 notify the Authority immediately of the Service Failure;
 - 18.3.2 provide the Authority with a Rectification Plan in accordance with clause 21;
 - 18.3.3 deploy all additional resources and take all remedial action that is necessary to rectify or to prevent the Service Failure from recurring; and
 - 18.3.4 carry out the actions identified in the Rectification Plan in accordance with its terms.
- 18.4 The Supplier shall automatically credit the Authority with the applicable Service Credits as set out in the Specification if any. Service Credits shall either be shown as a deduction from the amount due from the Authority to the Supplier in the next invoice then due to be issued under this Contract, or the Supplier shall issue a credit note against a previous invoice and the amount for the Service Credits shall be repayable by the Supplier as a debt within 20 Working Days of issue of the credit note. The Parties agree that any such Service Credits have been calculated as, and are, a genuine pre-estimate of the loss likely to be suffered by the Authority.
- 18.5 The Authority and the Supplier shall review the Service Levels every 3 months throughout the duration of this Contract and make any changes in accordance with any agreed variation to this Contract in accordance with clause 17 to reflect changes in the Service Levels.

18.6 On the occurrence of a Critical Service Level Failure:

- 18.6.1 the Authority shall have the right to terminate this Contract immediately at any time;
- 18.6.2 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 18.6.3 the Authority shall be entitled to withhold and retain as compensation for the Critical Service Level Failure a sum equal to any Contract Charges which would otherwise have been due to the Supplier in respect of the preceding month of Services ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this clause 18.6 shall be without prejudice to the right of the Authority to terminate this Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure.

18.7 The Supplier:

- 18.7.1 agrees that the application of clause 18.6 is commercially justifiable where a Critical Service Level Failure occurs; and
- 18.7.2 acknowledges that it has taken legal advice on the application of clause 18.6 and has had the opportunity to price for that risk when calculating the Contract Charges.

19 DISRUPTION

- 19.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- 19.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by the Supplier's personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Contract.
- 19.3 In the event of industrial action by the Supplier's personnel, the Supplier shall seek written approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under this Contract.
- 19.4 If the Supplier's proposals referred to in clause 19.3 are considered insufficient or unacceptable by the Authority acting reasonably then the Authority may terminate this Contract for material Default.
- 19.5 If the Supplier is temporarily unable to fulfil the requirements of this Contract owing to disruption of normal business solely due to a Authority Cause, then subject to clause 20 (Supplier Notification of Authority Cause), an appropriate allowance by way of an extension of time will be Approved by the Authority. In addition, the Authority will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

20 SUPPLIER NOTIFICATION OF AUTHORITY CAUSE

- 20.1 Without prejudice to any other obligations of the Supplier in this Contract to notify the Authority in respect of a specific Authority Cause, the Supplier shall notify the Authority as soon as reasonably practicable (and in any event within two (2) Working Days of the Supplier becoming aware) that a Authority Cause has occurred or is reasonably likely to occur, giving details of:
 - 20.1.1 the Authority Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Contract; and

- 20.1.2 any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Authority Cause; and
- 20.1.3 use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Authority Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

21 RECTIFICATION PLAN

- 21.1 If the Supplier commits a Service Failure, the Authority may serve a rectification notice to the Supplier which shall specify the Service Failure in outline and the actions the Supplier needs to take with respect to remedying the Service Failure (“**Rectification Notice**”).
- 21.2 The Authority shall be under no obligation to initiate this rectification process if it has issued a notice of termination pursuant to clause 31.3 or 31.4.
- 21.3 Within the time frame specified in the Rectification Notice, the Supplier shall either:
 - 21.3.1 submit a draft Rectification Plan, even if it disputes that it is responsible for the matters which are the subject of the Rectification Notice; or
 - 21.3.2 inform the Authority that it does not intend to submit a Rectification Plan, in which event the Authority shall be entitled to terminate this Contract upon the expiry of a notice period specified in the termination notice served on the Supplier by the Authority.
- 21.4 The Authority shall either approve the draft Rectification Plan within 10 Working Days of its receipt or as soon as reasonably practicable, or it shall inform the Supplier why it cannot accept the draft Rectification Plan. In such circumstances, the Supplier shall address all such concerns in a revised Rectification Plan, which it shall submit to the Authority within 5 Working Days of its receipt of the Authority's comments or by such date as stipulated by the Authority.
- 21.5 Once agreed, the Supplier shall immediately start work on the actions set out in the Rectification Plan.
- 21.6 If, despite the measures taken under clause 21.4, the revised Rectification Plan cannot be agreed within 10 Working Days or as soon as reasonably practicable then the Authority may elect to end the Rectification Plan process set out above and terminate this Contract upon the expiry of a notice period specified in the termination notice served on the Supplier by the Authority.
- 21.7 If a Rectification Plan is agreed between the Parties, but the Supplier fails to implement or successfully complete the Rectification Plan by the required Rectification Plan completion date, the Authority may:
 - 21.7.1 terminate this Contract upon the expiry of a notice period specified in the termination notice served on the Supplier by the Authority; or
 - 21.7.2 give the Supplier a further opportunity to resume full implementation of the Rectification Plan; or
 - 21.7.3 escalate any issues arising out of the failure to implement the remediation plan under the dispute resolution procedure set out in clause 47.
- 21.8 If, despite the measures taken under clause 21.7.2, the Supplier fails to implement the Rectification Plan in accordance with its terms, the Authority may elect to end the rectification plan process and refer the matter for resolution by the dispute resolution procedure set out in clause 47 or terminate this Contract immediately or upon the expiry of a notice period specified in the termination notice.

21.9 The Authority shall not be obliged to follow this rectification process if there is a repetition of substantially the same Service Failure as had previously been addressed in a Rectification Plan within a reasonable period following the conclusion of such previous Rectification Plan. In such event, the Authority may terminate this Contract upon the expiry of a notice period specified in the termination notice served on the Supplier by the Authority.

22 PROGRESS AND INSPECTION

22.1 The Supplier shall at its expense provide any programmes for the provision of the Equipment and Services delivery that the Authority may reasonably require. Such programmes shall be agreed with the Authority.

22.2 The Supplier shall notify the Authority, in writing, without delay if manufacturing or production progress falls behind or may fall behind any of these programmes.

22.3 The Authority shall have the right to check progress at the Supplier's manufacturing facilities or offices (including home working) or the offices (including home working) of the Supplier's Sub-Contractors at all reasonable times to inspect and to reject the Equipment and Services that do not comply with this Contract. The Supplier's sub-contracts shall reserve such rights for the Authority.

22.4 Any inspection or approval shall not relieve the Supplier from its obligations under this Contract.

23 BENCHMARK

23.1 The Authority may, by written notice, require a Benchmark Review of any or the entire Contract Charge paid by the Authority and/or Services Specification and for the Service Levels.

23.2 Subject to clause 23.3 if any Benchmark Review determines that any or all of the Contract Charge are not comparable to, or better than, the terms offered by the Supplier to any of its similarly situated commercial customers of equal or lesser size for comparable products or services, the Authority may require the Supplier to reduce the Contract Charge and/or implement improvements to the Services or the Service Levels in accordance with the relevant Benchmark Report within 3 months of receipt of the Benchmark Report.

23.3 Any amendment to Contract Charge and/or the Service Levels in accordance with the Benchmark Report shall be deemed agreed in accordance with the terms of clause 17 without cost to the Authority.

23.4 The Authority shall be notified of the Benchmark Report and any amendment to the Contract Charge for the Equipment and/or Services in accordance with this Contract.

24 PRICE AND PAYMENT

24.1 Subject to any applicable Service Credits and any Benchmark Review (conducted in accordance with this Contract or by the Authority in accordance with any framework agreement under which this Contract was awarded to the Supplier) the Contract Charge(s) shall be set out in the Contract or determined in accordance with the schedule of rates attached to this Contract if any, and shall be the full and exclusive remuneration of the Supplier in respect of the delivery of the Services. Unless otherwise agreed in writing by the Authority, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

24.2 Contract Charges shall be inclusive of the costs of packaging, insurance and carriage of the Equipment. No extra charges shall be effective unless agreed in writing and signed by the Authority.

- 24.3 If any import or similar duty is payable where the Equipment are imported into the United Kingdom from abroad, the Supplier will be responsible for paying it notwithstanding that the duty may subsequently be recoverable from the United Kingdom authorities. The Authority will lend reasonable co-operation to the Supplier in applying to recover duty from the United Kingdom authorities so far as it is reasonable for a Authority to do so. Any duty recovered will be retained by the Supplier if the Contract Charge excludes import duty. Any duty recovered by the Supplier will be paid to the Authority if the Contract Charge includes import duty. If the Supplier is unable to recover the import duty from the United Kingdom authorities in no circumstances will this be recoverable from the Authority.
- 24.4 In accordance with this Contract where the Supplier is required to provide Deliverables, the Authority shall be entitled to withhold payment of the Contract Charges pending receipt and acceptance of the Deliverables in accordance with the Specification.
- 24.5 Where appropriate, the Contract Charges shall include the cost of instructing and training the Authority's personnel in the use, operation and exploitation of the Equipment and Services.
- 24.6 The Supplier shall invoice the Authority as agreed in writing between the Parties. Each invoice shall include such supporting information required by the Authority to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number.
- 24.7 Invoices to the Authority must be sent or emailed to the contact details given in the Purchase Order and must be correctly addressed with the full Purchase Order number quoted.
- 24.8 The Authority shall pay correctly rendered and undisputed invoices within 30 days of receipt of the invoice ("**the Due Date**"). Payment shall be made to the UK bank account held in the name of the Supplier and nominated in writing by the Supplier, such payment system to support or interact electronic security payment systems if any.
- 24.9 All amounts payable by the Authority under this Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under this Contract by the Supplier to the Authority, the Authority shall on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Equipment and/or Services at the same time as payment is due for the supply of the Equipment and/or Services.
- 24.10 If a Party fails to make any payment due to the other under this Contract by the Due Date for payment, then the defaulting Party shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting Party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting Party disputes in good faith.
- 24.11 The Authority may, without limiting any other rights or remedies it may have, set off any amount owed to it by the Supplier against any amounts payable by it to the Supplier under this Contract.
- 24.12 Whenever, under this Contract any sums of money shall be recoverable from or payable by the Supplier the same may be deducted from any sums then due, or which at any time, thereafter may become due to the Supplier under this Contract or under any other agreement or contract with the Authority or with any other department within the Authority.
- 25 LICENSED AUTHORITY ITEMS**
- 25.1 The Authority will with effect from the Commencement Date grant to the Supplier a non-exclusive, non-transferrable (save as necessary in relation to any permitted sub-suppliers)

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- licence to use any of the Licensed Authority Items to the minimum extent necessary for the duration and purposes of this Contract.
- 25.2 The Supplier shall fully and on demand indemnify and keep indemnified the Authority against any and all claims, losses, or damages suffered, sustained or incurred by the Authority arising out of or in connection with the use of the Licenced Authority Items by the Supplier unless such claims, losses or damages are caused by any negligent act or omission by the Authority. There shall be no double recovery under this clause.
- 25.3 In relation to the Licenced Authority Items, the Supplier shall:
- 25.3.1 use the Licenced Authority Items strictly in accordance with any reasonable instructions provided by the Authority;
 - 25.3.2 store, operate and/or utilise all the Licenced Authority Items in accordance with the reasonable recommendations of the Authority and of the manufacturers which are notified in writing to the Supplier by the Authority from time to time;
 - 25.3.3 store, operate and/or utilise the Licenced Authority Items in accordance with current statutory requirements and other applicable guidelines;
 - 25.3.4 not charge or encumber the Licenced Authority Items;
 - 25.3.5 not sub-licence, assign or novate the benefit or burden of the licence set out in this clause 25 in whole or in part;
 - 25.3.6 notify the Authority as soon as practicable of it coming to the notice of the Supplier that any of the Licenced Authority Items has developed a fault or is otherwise not operating correctly (provided that the Supplier shall notify the Authority immediately in the case of an emergency relating to the Licenced Authority Items and shall take all reasonable steps to secure the relevant item to ensure it does not pose any risk or harm to any service user or employee or any other person);
 - 25.3.7 not, nor shall it permit, any third party to modify, disassemble or alter the Licenced Authority Items;
 - 25.3.8 ensure that the Licenced Authority Items is returned to the Authority as soon as reasonably practicable in the same or similar condition as the Licenced Authority Items have been provided to the Supplier (accepting fair wear and tear) at the expiry of the licence granted pursuant to this clause 25; and
 - 25.3.9 sign a copy of any policy or procedure of the Authority involving acceptable use, security or otherwise, available at the Supplier's request, where the Licenced Authority Items includes the Authority's IT or communication systems.
- 25.4 Subject to the Supplier complying with its obligations pursuant to clause 25 in relation to the Licenced Authority Items, the Authority shall at its discretion and own cost replace any Licenced Authority Items which in its opinion (acting reasonably) ceases to be capable of being safely and effectively used for the purposes for which they are intended.
- 25.5 For the avoidance of any doubt, nothing in this clause 25 transfers or purports to transfer ownership of the Licenced Authority Items to the Supplier.
- 25.6 Upon expiry or termination of the licence granted pursuant to clause 25.2 or, if earlier, upon written notice given by the Authority to the Supplier following a Material Breach by the Supplier of its obligations under clause 25, all of the rights and licences granted by the Authority pursuant to clause 25 will terminate with immediate effect and the Supplier will return all the Licenced Authority Items to the Authority or transfer them to a Replacement Supplier as the

Authority may direct within timescales and in the manner agreed by the Parties from time to time each acting reasonably.

- 25.7 The Supplier shall satisfy himself that any Licenced Authority Items is suitable for the purpose intended.
- 25.8 The Supplier shall be liable for any damage to any Licenced Authority Items caused by misdirection or misuse due to negligence on the part of the Supplier, his staff, sub-suppliers, servants or agents.
- 25.9 The Authority shall not be liable for any damage to the Licenced Authority Items caused by a defect in or faulty operation of the Licenced Authority Items.
- 25.10 The Authority shall have the right to withdraw Licenced Authority Items at any time and shall be under no liability whatsoever for failing to licence equipment at any time.

26 COMPLIANCE WITH APPLICABLE LAWS

- 26.1 The Supplier shall (at no additional cost to the Authority) at all times carry out and provide the Equipment and Services in compliance with all Laws. The Supplier shall maintain such records as are necessary pursuant to such Laws and shall promptly on request make them available for inspection by any relevant authority that is entitled to inspect them and by the Authority (or its authorised representative).
- 26.2 The Supplier shall neither be relieved of its obligations to supply the Equipment and Services in accordance with the terms of this Contract nor be entitled to an increase in the Contract Charge as the result of any modifications to the Laws.
- 26.3 Without prejudice to clause 26.2, the Supplier shall monitor and shall keep the Authority informed in writing of any changes in the Laws which may impact the Equipment and Services and shall provide the Authority with timely details of measures it proposes to take and changes it proposes to make to comply with any such changes.
- 26.4 The Supplier shall consult with the Authority (and wherever possible agree with the Authority) on the manner, form and timing of changes it proposes to make to meet any changes in Laws where they would impact the Equipment or Services. The Supplier shall not implement any change, without the Authority's prior written agreement, which would have an adverse effect on the Supplier's ability to provide the Equipment and Services in accordance with the Specification.
- 26.5 Without prejudice to the rest of this clause 26, the Supplier shall use all reasonable endeavours to minimise any disruption caused by any changes in applicable Laws introduced pursuant to this clause 26.

27 SERVICE IMPROVEMENT AND TECHNOLOGY REFRESH

- 27.1 The Contract Manager and an Authorised Person shall have regular meetings as agreed to monitor and review the performance of this Contract, the achievement of the Service Levels and the provision of the Services. Such meetings shall be minuted by the Authorised Person where appropriate and copies of any such minutes shall be circulated to and approved by both Parties.
- 27.2 Prior to each meeting, the Authorised Person shall notify this Contract Manager, and vice versa, of any issues relating to the provision of the Services for discussion at the meeting. At the meeting, the Parties shall agree a plan to address such issues. In the event of any issue being unresolved, or a failure to agree on the plan, the procedures set out in clause 21 shall apply. Progress in implementing the plan shall be included in the agenda for the next meeting.
- 27.3 The Supplier shall, at its own cost, submit and promptly inform the Authority of any new and evolving relevant technologies and processes which could improve the Equipment and Services.

Such report shall be provided in sufficient detail to enable the Authority to evaluate properly the benefits of the new technology or process and, at the Authority's request, the Supplier shall make available to the Authority the new Equipment and Services on the terms on which they are generally made available to the Supplier's customers by the Supplier.

- 27.4 If the Authority wishes to incorporate any improvement identified by the Supplier pursuant to clause 27.3, the Parties shall discuss the implementation of the associated change provided always that if the Supplier's costs in providing the Equipment and Services as a result of any such change implemented by the Authority are reduced, a reasonable proportion as agreed of the cost savings shall be passed on to the Authority by way of a consequential and immediate reduction in the Contract Charge.

28 REMEDIES AND INSURANCE

- 28.1 If the Supplier fails to deliver the Equipment and/or perform the Services by the applicable Milestone Dates, or if the Equipment or Services do not comply with the warranties and obligations set out in clauses 5 or 15 or the terms of this Contract, then, without limiting any of its other rights or remedies, the Authority shall have the right to any one or more of the following remedies:

28.1.1 to terminate or suspend this Contract in accordance with clause 0 either in whole or in part to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances;

28.1.2 to reject the Equipment (in whole or in part) and require the Supplier to arrange collection of them at the Supplier's own risk and expense;

28.1.3 to require the Supplier to repair or replace the rejected Equipment, or to provide a full refund of the price of the rejected Equipment (if paid);

28.1.4 to require re-performance of the Services (at the Supplier's expense), or to supply any replacement services and carry out any other necessary work to ensure that the terms of this Contract are fulfilled, in accordance with the Authority's instructions;

28.1.5 to refuse to accept any subsequent performance of the Services (or part thereof) and/or delivery or attempted delivery of all or some of the Equipment from the Supplier;

28.1.6 to recover from the Supplier any reasonable costs properly incurred by the Authority in obtaining substitute Equipment and/or services from a third party; and/or

28.1.7 to claim damages for any other costs, loss or expenses incurred by the Authority which are in any way attributable to the Supplier's failure to carry out its obligations under this Contract.

- 28.2 The Supplier shall keep the Authority and the Chief Constable indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by the Authority or the Chief Constable as a result of or in connection with:

28.2.1 any claim made against the Authority or the Chief Constable for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Equipment, or receipt, use or supply of the Services;

28.2.2 any claim made against the Authority or the Chief Constable by a third party arising out of, or in connection with, the supply of the Equipment or Services, to the extent

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that such claim arises out of the Default, negligent performance or failure or delay in performance of this Contract by the Supplier, its employees, agents or Sub-Contractors;

- 28.2.3 any claim made against the Authority or the Chief Constable by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Equipment or Services, to the extent that the defect in the Equipment or Services is attributable to the acts or omissions of the Supplier, its employees, agents or Sub-Contractors;
- 28.2.4 the provision of the Equipment and Services, including advice and recommendations made and accepted by the Authority or the Chief Constable and not being in accordance with the Specification;
- 28.2.5 any Installation and/or any Equipment and Services and/or advice given or anything done or omitted to be done under, or in connection with this Contract by the Supplier; and
- 28.2.6 any damage to the Authority's property or Premises (including any materials, tools or patterns sent to the Supplier for any purpose).

This clause 28.2 shall survive termination of this Contract.

- 28.3 The Authority's rights and remedies under this Contract are in addition to its rights and remedies implied by statute and common law and any equitable remedy.
- 28.4 The Supplier must take out and maintain insurance adequate to cover the risks set out in this Contract and in any event shall take out and maintain the following insurance coverages:
 - 28.4.1 Product Liability Insurance coverage of not less than ten million pounds sterling (£10,000,000) for any one, or series of claims that may arise; and
 - 28.4.2 Professional Indemnity Insurance coverage of not less than ten million pounds sterling (£10,000,000) for any one, or series of claims that may arise; and
 - 28.4.3 Public Liability Insurance coverage of not less than ten million pounds sterling (£10,000,000)] for any one, or series of claims that may arise; and
 - 28.4.4 Employer Liability Insurance coverage of not less than ten million pounds sterling (£10,000,000) for any one, or a series of claims that may arise; and
 - 28.4.5 Any other insurance coverage which is set out in the Special Conditions.
- 28.5 The Supplier will take out and maintain such insurances as set out in this clause 29 with a reputable insurance company and shall at the Authority's request provide evidence of the insurance policy or policies and of payment of the premiums. The Supplier's failure to maintain such insurances or satisfy the Authority, acting reasonably, that such insurances have been maintained, shall be treated as a Material Breach and shall give the Authority the right to terminate this Contract in accordance with clause 0.

29 LIABILITY

- 29.1 Neither Party excludes or limits its liability for:
 - 29.1.1 death or personal injury caused by its negligence or that of its employees, agents or Sub-Contractors (as applicable);
 - 29.1.2 fraud or fraudulent misrepresentation by it or its employees;

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- 29.1.3 the wilful abandonment by the Supplier of its obligations in relation to the provision of the Services; or
- 29.1.4 breach of any obligations as to title implied by Section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.
- 29.2 Subject to clause 29.1, the Authority's total aggregate liability in connection with this Contract in respect of all claims, losses or damages (whether in contract, tort (including negligence), breach of statutory duty or however arising) shall be limited a sum equivalent to the price paid for the Equipment and Services ordered under this Contract.
- 29.3 Subject to clause 29.1, neither Party will be liable to the other Party for:
 - 29.3.1 indirect loss or damage;
 - 29.3.2 special loss or damage;
 - 29.3.3 consequential loss or damage;
 - 29.3.4 loss of profits (whether direct or indirect);
 - 29.3.5 loss of turnover (whether direct or indirect);
 - 29.3.6 loss of business opportunity (whether direct or indirect); and/or
 - 29.3.7 damage to goodwill (whether direct or indirect),and in each case, even if that Party was aware of the possibility of such loss or damage to the other.
- 29.4 Notwithstanding clause 29.3, claims for direct financial loss that are not so excluded include claims for:
 - 29.4.1 the costs and expenses in connection with the migration from the Software Deliverables to substitute software;
 - 29.4.2 the cost of all external consultancy, internal or external computer time, acceptance testing and internal personnel support and related costs incurred to remedy the defects in the Software Deliverables;
 - 29.4.3 the cost of purchasing services to correct defects in the Software Deliverables;
 - 29.4.4 the cost of preparing for the installation, testing and implementation of the Software Deliverables, to the extent that such cost is wasted;
 - 29.4.5 savings which the Authority would otherwise have made as a result of implementation of the Software Deliverables;
 - 29.4.6 costs and expenses (including legal costs and disbursements on a solicitor and client basis) of the Authority incurred as a result of dealing with, and any fine imposed by, any regulatory authority resulting from with any breach by the Supplier of:
 - (a) any Laws; and
 - (b) any of its obligations under this Contract.
- 29.5 Subject to clauses 29.1, the provisions of clause 29.3 shall not be taken as limiting the right of the Authority to, amongst other things, recover from the Supplier as a direct loss:
 - 29.5.1 any additional operational and/or administrative costs and expenses; and/or

- 29.5.2 any wasted expenditure or charges rendered unnecessary and/or incurred by the Authority; and/or
- 29.5.3 damage due to the loss of data if any, but only to the extent that such losses relate to the costs of working around any loss of data and the direct costs of recovering or reconstructing such data,
resulting directly from any act or omission of the Supplier.
- 29.6 If any limitation or provision contained or expressly referred to in this clause 29 is held to be invalid under any Law, it will be deemed omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this clause 29.
- 29.7 Nothing in this clause 29 shall affect a Party's general duty to mitigate its loss.

30 SUSPENSION

- 30.1 Without limiting its other rights or remedies the Authority may suspend this Contract in whole or in part by giving written notice of such suspension to the Supplier if the Supplier or any of their employees or agents are or become;
 - 30.1.1 subject to a criminal investigation in respect of allegations arising out of or relating to their professional practice whether in respect of work undertaken in performance of this Contract or otherwise; or
 - 30.1.2 subject to a criminal investigation relating to an allegation, which if substantiated, would constitute a breach of the terms of this Contract; or
 - 30.1.3 subject to any allegation of professional negligence; or
 - 30.1.4 in the reasonable opinion of the Authority, involved in any fraudulent activities or misapplication of funds (whether involving the Contract or not); or
 - 30.1.5 subject to investigation by a relevant regulatory body in respect of any alleged breach of a relevant code of practice.
- 30.2 The Supplier must inform the Authority immediately upon becoming aware of any of the matters set out above.
- 30.3 The Authority shall have no liability to accept delivery of any of the Services during the period of suspension and the sums payable by the Authority under this Contract shall be reduced during the period of suspension by an amount equivalent to the value of the Services suspended for the duration of such suspension and the Authority shall have no liability whatsoever to make any payment to the Supplier of any sums withheld during the period of suspension.
- 30.4 For the avoidance of doubt the Authority will be entitled during any period of suspension to engage other Supplier to provide the Equipment and / or Services which the Supplier is unable to provide by reason of the suspension.
- 30.5 Following a suspension pursuant to clause 30.1 above the Authority shall keep the matter under review and should the reasons for the suspension be resolved to the satisfaction of the Authority then the Authority may give written notice lifting suspension of this Contract.
- 30.6 For the avoidance of doubt, if the investigations or allegations at clause 30.1 are substantiated this will constitute a Material Breach for which the Authority reserves the right to terminate this Contract under clause 0 below.

31 TERMINATION

- 31.1 Without limiting its other rights or remedies, the Authority may terminate this Contract in respect of the supply of the Equipment and Services or part of such supply by giving the Supplier 6 months' written notice.
- 31.2 The Authority may terminate this Contract in the circumstances provided for under clauses 21.3, 21.8 or 21.9.
- 31.3 The Authority may immediately terminate or suspend this Contract, either in whole or in part to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances, where:
 - 31.3.1 the Supplier commits a Critical Service Level Failure;
 - 31.3.2 in accordance with clause 37.8 (Environmental and ethical sourcing)
 - 31.3.3 clause 34.14 (Confidential Information);
 - 31.3.4 in accordance with clause 39.6 (Anti-bribery and fraud);
 - 31.3.5 the Supplier commits any material Default of this Contract which is not, in the reasonable opinion of the Authority, capable of remedy;
 - 31.3.6 the Supplier commits a Default, including a material Default, which in the opinion of the Authority is remediable but has not remedied such Default to the satisfaction of the Authority in accordance with the Rectification Plan;
 - 31.3.7 this Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9); or
 - 31.3.8 the Supplier has, at the time of contract award, been in one of the situations referred to in Regulation 57(1), including as a result of the application of Regulation 57(2), and should therefore have been excluded from the procurement procedure; or
 - 31.3.9 this Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaty on European Union and the Public Contracts Directive 2014/24 or the Treaty on the Functioning of the European Union that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of Treaty on the Functioning of the European Union.
- 31.4 The Authority may terminate this Contract by issuing a termination notice to the Supplier where in the reasonable opinion of the Authority there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
 - 31.4.1 adversely impacts on the Supplier's ability to supply the Services under this Contract; or
 - 31.4.2 could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Services under this Contract.
- 31.5 Either Party may terminate this Contract with immediate effect or upon the expiry of a notice period specified in the termination notice served on the other Party if:
 - 31.5.1 the other Party commits a Material or Persistent Breach of this Contract and (if such breach is remediable) fails to remedy that breach to the satisfaction of the other Party within the reasonable timescale as specified by the other Party, after issue of a written notice specifying the breach and requesting it to be remedied;

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- 31.5.2 the other Party 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 (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 31.5.3 the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- 31.5.4 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other Party, other than for the sole purpose of a scheme for a solvent amalgamation of the other Party with one or more other companies or the solvent reconstruction of the other Party;
- 31.5.5 (being an individual) the other Party is the subject of a bankruptcy petition or order;
- 31.5.6 a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 31.5.7 (being a company) 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 given or if an administrator is appointed over the other Party;
- 31.5.8 (being a company) a floating charge holder over the other Party's assets has become entitled to appoint or has appointed an administrative receiver;
- 31.5.9 a person becomes entitled to appoint a receiver over the other Party's assets or a receiver is appointed over the other Party's assets;
- 31.5.10 any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 31.5.2 to clause 31.5.9 inclusive;
- 31.5.11 the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business;
- 31.5.12 (being an individual) the other Party dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
- 31.5.13 there is a change of Control of the other Party.

32 CONSEQUENCES OF TERMINATION

- 32.1 Where the Authority terminates (in whole or in part) this Contract under clauses 17.6 (Service variation), 31.2, 31.3, 31.4 and 31.5.1 (Termination), and then makes other arrangements for the supply of the Services, the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period provided that Authority shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Authority to the Supplier until the Authority has established the final cost of making those other arrangements.

- 32.2 Upon termination of this Contract whether by expiration of this Contract term or otherwise, the Supplier agrees and hereby guarantees that it will co-operate fully with the Authority to transfer to the Authority (including but not limited to) any plans, drawings, specifications, technical and legacy data, copies of records (electronic or otherwise), copies of reports (electronic or otherwise), information (howsoever stored), test results, samples relating to this Contract which are in the possession of the Supplier or any third party, provided always that:
- 32.2.1 the Supplier shall not be required to transfer to the Authority any patent design or other Intellectual Property Right owned by the Supplier and valid at the time this Contract was originally tendered, in any of the specifications, drawings or plans etc, and which has not already transferred under this Contract to the Authority; and
- 32.2.2 any charges applicable for any samples or drawings, which were made known to (and agreed by) the Authority prior to the signing of this Contract, will be made to the Supplier if outstanding at the time of termination.
- 32.3 All items shall be delivered to the Authority within 14 days of termination of this Contract or upon a request being made to the Supplier by the Authority). Any request by the Authority shall detail the reasonable location of delivery, method of delivery, format of any data or information and the medium to be used for its migration. Unless otherwise agreed, the language that any drawings, data, reports or information etc shall be written and presented in shall be modern British English.
- 32.4 Other than the prices agreed at clause 32.2.2, the Supplier shall make no other charge for the return of any item listed at clause 32.1.
- 32.5 All items in connection with the performance of this Contract shall be returned to the Authority in the original condition they were in when presented to the Supplier. Samples should be in the condition or state they were in at the time of acceptance or approval by the Authority as being in compliance with the design or specification detailed within this Contract, subject to any subsequent agreed testing or reasonable wear and tear.
- 32.6 All equipment and materials provided and/or assembled by (or which are in the process of being provided or assembled by) the Supplier or materials and parts of Sites or Locations which are being altered or modified by the Supplier, in accordance with this Contract shall be transferred into the ownership of the Authority regardless of whether the assembly of such equipment and materials or the alteration or modification of such Sites or Locations has been completed.
- 32.7 The accrued rights and remedies of the Parties as at termination shall not be affected, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination.
- 32.8 Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

33 REPUTATION

- 33.1 The Supplier shall not, and shall procure that its employees, Affiliates or Sub-Contractors shall not:
- 33.1.1 do any act or make any omission that has or could reasonably be expected to have an adverse impact upon the security of the business, operations, systems or properties or Premises of the Authority or the Chief Constable;
- 33.1.2 take any action which might or shall embarrass or bring the Authority or the Chief Constable into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of

whether or not such act or omission is related to the Supplier's obligations under this Contract:

- 33.2 Without limiting clause 33.1, the Supplier shall comply with the provisions of the reasonable standards, policies, procedures and regulations provided from time to time to the Supplier by the Authority or the Chief Constable.

34 CONFIDENTIAL INFORMATION

- 34.1 If the Authority has required the Supplier or its sub-contractors to sign a mutual confidentiality agreement with it or the Chief Constable prior to signing or during the term of this Contract, the Supplier shall comply at all times with its obligations under that mutual confidentiality agreement.

- 34.2 Upon reasonable request at any time by the Authority, the Supplier shall obtain individual signed confidentiality undertakings from any employees or Sub-Contractors in a form approved by the Authority.

- 34.3 A Party is entitled to disclose the whole or any part of the other's Confidential Information:

34.3.1 to its directors, officers, employees, servants, Sub-Contractors, agents or professional advisers to the extent necessary to enable the performance or enforcement of its rights or obligations under this Contract subject to any such persons signing confidentiality undertakings in a form approved by the Authority if requested to do so;

34.3.2 when (and to the extent) required to do so by Laws or pursuant to the rules or any order having the force of law of any court, association or agency of competent jurisdiction or any governmental agency;

34.3.3 to the extent that the Confidential Information has, except as a result of breach of obligations of confidentiality, become publicly available or generally known to the public at the time of such disclosure (provided that no Confidential Information shall be deemed to be so publicly available or generally known only because such information is within or part of more general information, or (in the case of a complex body of such information) because one or more elements of it separately comprise publicly available information or information generally known to the public);

34.3.4 in the case of disclosure by the Authority:

34.3.5 to the extent required for the purpose of the continued provision of the Equipment and / or Services (or similar replacement Equipment and / or services) in the event of suspension, expiry or termination of particular Equipment and / or Services;

34.3.6 in relation to the outcome of a procurement as may be required to be published in the Official Journal of the European Union or elsewhere;

34.3.7 to any department, office or agency of the Government or other entity where required for its proper departmental, parliamentary, governmental, statutory or judicial purposes;

34.3.8 to any consultant, contractor or other person engaged by the Authority in connection with the provision of the Services or the performance of the Supplier's obligations under this Contract, to the extent reasonably necessary to enable that consultant, contractor or other person to carry out their engagement with the Authority;

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- 34.3.9 to the extent the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions in accordance with Laws; and
- 34.3.10 subject to clause 41, to the extent the Authority (acting reasonably) deems disclosure necessary or appropriate in order to comply with its obligations and responsibilities under the FOIA or the Environmental Information Regulations.
- 34.4 Notwithstanding clause 34.3, the Supplier shall give the Authority prompt advance notice of any disclosure of the Authority's or the Chief Constable's Confidential Information and shall consult and give the Authority or the Chief Constable reasonable opportunity to comment on the nature and extent of disclosure, and shall take account of any reasonable comment made by the Authority or the Chief Constable. Notwithstanding the permitted disclosures under clause 34.33, the Authority and the Chief Constable shall have the right to prohibit disclosure of the Authority's or the Chief Constable's Confidential Information to any person and the Supplier shall not make such disclosure to any such person so prohibited by the Authority or the Chief Constable unless subject to a court order or permitted under Freedom of Information legislation.
- 34.5 The Supplier authorises the Authority to disclose the Confidential Information to such person(s) as is necessary for the purposes of auditing and collating information for any Benchmark Review. The Authority shall use reasonable endeavours to ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made.
- 34.6 The Supplier shall:
 - 34.6.1 use the Authority's and the Chief Constable's Confidential Information solely for this Contract;
 - 34.6.2 take all necessary precautions to ensure that all of the Authority's or the Chief Constable's Confidential Information is held in confidence and treated as proprietary;
 - 34.6.3 comply with all instructions and/or guidelines produced by the Authority or the Chief Constable from time to time for the handling and storage of its Confidential Information generally or for specific items;
 - 34.6.4 inform all staff and Sub-Contractors and agents that breach of any of its confidentiality obligations shall result in contractual and/or disciplinary action (and the Supplier shall ensure that such contractual and/or disciplinary actions and proceedings are reported to the Authority or the Chief Constable and instituted and enforced as required); and
 - 34.6.5 forthwith report to the Authority or the Chief Constable all failures to comply with the obligations set out in this clause 34.6 of which the Supplier is or becomes aware.
- 34.7 Notwithstanding the generality of clause 34.3, Personal Data shall not be released from any of the confidentiality obligations of clause 34, except with the prior consent of the Data Controller in accordance with the Laws.
- 34.8 Without prejudice to any other rights and remedies that the other Party would have, each Party agrees that damages would not be an adequate remedy for any breach of this clause 34 and that the other Party shall be entitled to the remedies of injunction, specific performance and/or other equitable relief for any threatened or actual breach of this clause 34.

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- 34.9 The Authority's and the Supplier's obligations under this Contract with respect to Confidential Information shall survive its expiry or termination and shall continue for as long as such information remains confidential.
- 34.10 Nothing in this clause 34 limits, diminishes, waives or releases either Party's obligations and responsibilities under the Official Secrets Acts 1911 to 1989 or in regard to personal data in accordance with the Data Protection Legislation.
- 34.11 The Supplier shall at all times (including after termination or expiry of this Contract) comply with the obligations imposed by the Official Secrets Acts 1911 to 1989.
- 34.12 The Supplier shall:
- 34.12.1 take all reasonable steps, by display of notices or by other appropriate means, to ensure that such persons have notice that the Official Secrets Acts 1911 to 1989 applies to them and shall continue so to apply; and
 - 34.12.2 where requested by the Authority at any time, procure (within 10 Working Days of the request) the signature by all of the persons specified by the Authority of an Official Secrets undertaking in a form specified by the Authority.
- 34.13 The Supplier shall ensure that a similar obligation to this clause 34 is included in all contracts or agreements the Supplier entered into with a Sub-Contractor or agent in connection with the provision of the Equipment and / or Services.
- 34.14 The Authority may terminate this Contract immediately in the event that the Supplier fails to comply with any requirement of this clause 34, including the failure to procure the signature of an Official Secrets undertaking for any person specified by the Authority or any disclosure of the Authority's Confidential Information in breach of this clause 34.

35 PUBLICITY

- 35.1 Unless expressly permitted in writing by the Authority, the Supplier shall not publish or permit to be published either alone or in conjunction with any other person any information, articles, photographs or other illustrations relating to or connected with the Contract.
- 35.2 This Contract shall not entitle the Supplier or any of their subcontractors, agents or employees to endorse its goods or services with any reference to the Authority, the relevant police force or Chief Constable if applicable and the Supplier shall not exhibit for advertising or any other reason any goods or services or equipment supplied under the Contract which can be identified with the Authority without the prior written consent of the Authority.
- 35.3 Clause 35 includes any such reference made in any form of written, pictorial or audible advertising campaign, marketing, sales or promotion campaign.

36 INTELLECTUAL PROPERTY RIGHTS

- 36.1 Each Party shall retain all Intellectual Property Rights that they owned prior to entering this Contract.
- 36.2 All Intellectual Property Rights in the Supplier Software, and any Modification thereto, belong and shall belong to the Supplier.
- 36.3 The Supplier hereby grants to the Authority a perpetual, royalty-free and non-exclusive licence to use
- 36.3.1 the Supplier Software for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's business or function including but not limited to the right to load, execute, store,

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- transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display); and
- 36.3.2 the Supplier Background IPR for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to as part of the exercise of the Authority's business or function.
- 36.4 The Authority shall be freely entitled to sub-licence the rights granted to it pursuant to clause 36.3.1.
- 36.5 The Authority shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to clause 36.3.1 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 Authority.
- 36.6 If a licence granted in clause 36.3.1 is novated under clause 36.6 (such body being referred to as the "Transferee"), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Authority.
- 36.7 The Authority shall have no right to copy (other than as required under clause 36.4), adapt, reverse engineer, decompile, disassemble or modify the Supplier Software in whole or in part, except:
- 36.7.1 as provided in clause 36.2;
- 36.7.2 as permitted by Law; or
- 36.7.3 to the extent that such action is legitimately required for the purposes of integrating the operation of the Supplier Software with the operation of other software or systems used by Authority.
- 36.8 Subject to clause 36.1, all copyright or other Intellectual Property Rights in respect of any Deliverable or relating in any way to the Services or the Authority is the exclusive property of the Authority with effect from creation or immediately after creation.
- 36.9 The Supplier shall not acquire any right, title or interest in or to the IPRs of the Authority. Where the Supplier acquires, by operation of Law, title to the IPRs of the Authority, such IPR shall be assigned by it to the Authority promptly on request.
- 36.10 The Supplier shall fully and on demand indemnify and keep indemnified the Authority against any and all claims, demands and proceedings and any and all claims, losses or damages suffered, sustained or incurred by the Authority arising from or connected with the use, application, supply of the Software Deliverables and any Services, process, article, matter or thing supplied under this Contract that would constitute or is alleged to constitute any infringement of any third party's:
- 36.10.1 legal, common law, equitable or other rights of any kind; and
- 36.10.2 without prejudice to clause 36.10.1 (and without duplication of liability), Intellectual Property Rights.
- 36.11 The Supplier shall on an independent and separate basis at all times, during and after the term of this Contract, fully and on demand indemnify and keep indemnified the Authority against any and all claims, demands and proceedings and any and all claims, losses or damages suffered, sustained or incurred by the Authority arising from a Supplier IPR Claim.
- 36.12 If a Supplier IPR Claim is made, the Authority agrees that:
- 36.12.1 it will notify the Supplier in writing of any Supplier IPR Claim;

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- 36.12.2 unless it indicates otherwise, it will allow the Supplier to conduct all negotiations and proceedings and will provide the Supplier with such reasonable assistance required by the Supplier, each at the Supplier's cost, regarding the Supplier IPR Claim; and
- 36.12.3 it will not, without first consulting with the Supplier, make an admission relating to the Supplier IPR Claim.
- 36.13 The Supplier shall consider and defend the Supplier IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Authority into disrepute.
- 36.14 The Supplier shall not settle or compromise any Supplier IPR Claim without first consulting with the Authority and shall not settle or compromise any Supplier IPR Claim that relates solely to the Authority without the Authority's prior written consent (such consent not to be unreasonably withheld or delayed).
- 36.15 If a Supplier IPR Claim is made, or the Supplier anticipates that a Supplier IPR Claim might be made, the Supplier may, at its own expense but at the Authority's option:
- 36.15.1 procure for the Authority the right to continue using the relevant item which is subject to the Supplier IPR Claim; or
- 36.15.2 replace or modify the relevant item with non-infringing substitutes, provided that:
- (a) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (b) the replaced or modified item does not have an adverse effect on any other Services or the systems of the Supplier or the Authority;
 - (c) there is no additional cost to the Authority; and
 - (d) the terms of this Contract shall apply to the replaced or modified Services.
- 36.16 If the Supplier elects to modify or replace an item pursuant to clause 36.15.2 or to procure a licence in accordance with clause 36.15.1, but this has not avoided or resolved the Supplier IPR Claim, then the Authority may terminate this Contract by written notice with immediate effect and, without prejudice to any indemnity set out in this clause 36, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.
- 36.17 The provisions of clauses 36.10 to 36.16 (inclusive) shall not apply in respect of any Supplier IPR Claim directly and exclusively caused by:
- 36.17.1 any use by or on behalf of the Authority of the Supplier Software, or the use of any the Authority Software by or on behalf of the Supplier, in either case in combination with any item not supplied pursuant to this Contract; or
- 36.17.2 the use by the Authority of the Supplier Software, or the use of any software of the Authority by the Supplier, in either case in a manner not reasonably to be inferred from the Specification or the provisions of this Contract.
- 36.18 The Supplier hereby grants, or shall procure the direct grant, to the Authority of a royalty-free, non-exclusive, transferable only in accordance with this Contract, perpetual, irrevocable licence to use the project specific IPRs for any purpose relating to the Services or to the exercise of the Authority's business or function or to the Replacement Supplier or to any other third Party providing services to the Authority who may need to use the Supplier System to provide those services.

- 36.19 Except to the extent that the Authority obtains such licences directly, the Third Party Software shall be licensed to the Authority on terms materially in accordance with the Third Party Software licence terms.
- 36.20 The Supplier confirms that the Authority may wish to licence or use Software including any of the Specially Written Software or Project Specific IPRs (once it has been developed) may do so and shall not be charged additional development charges, nor a licence fee for any of the Specially Written Software or Project Specific IPRs, except to the extent that there may be additional interface or development effort required for the Authority. The foregoing shall be without prejudice to any rights which the Supplier may have to charge the Authority and/or any other entity a fee with respect to the maintenance of the Specially Written Software or Project Specific IPRs.
- 36.21 The Supplier shall, if requested by the Authority but only to the extent already provided to the Authority, grant or procure the grant to the Replacement Supplier a licence to use any Supplier Software, Supplier's Background IPRs or (except to the extent that the Authority obtains such licences directly) Third Party Software subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 36.22 The Supplier hereby grants to the Authority a non-exclusive licence to use and/or copy, as necessary, the Deliverables for any purpose connected with the receipt of the Services or that is incidental to the exercise of the rights granted to the Authority under this Contract.
- 36.23 The Supplier authorises the Authority to use the Supplier's or its Sub-Contractors names and logos as provided by or to the Authority on the Authority's website and any other information, documentation or publication the Authority may produce/use generally in relation to the Services.

37 ENVIRONMENTAL AND ETHICAL SOURCING

- 37.1 The Supplier shall perform its obligations under this Contract in accordance with the spirit and objectives of the Authority's environmental policy, if any.
- 37.2 The Supplier shall ensure that workers employed or engaged on this Contract are treated fairly, humanely and equitably.
- 37.3 In so far as the Supplier or any Sub-Contractor or its employee dispose of any waste Equipment or other items (including electronic products) in the course of or in connection with the performance of the Supplier's obligations under this Contract, the Supplier shall ensure that those Equipment or other items are disposed of in an environmentally friendly manner and in accordance with all applicable EU and UK laws and regulations, including (where applicable) the Environmental Protection Act 1990 and the Waste Electrical and Electronic Equipment Regulations 2013.
- 37.4 If and when requested to do so by the Authority at any time, the Supplier shall provide the Authority with such documents and/or permit representatives of the Authority to have such access to the Supplier's premises and personnel as the Authority may reasonably require for the purposes of verifying compliance on the part of the Supplier with its obligations under this clause 37.
- 37.5 The Supplier shall procure that each of its Sub-Contractors (if any) comply with obligations substantially similar to those set out in clauses 37.1 to 37.4 above.
- 37.6 In performing its obligations under this Contract, the Supplier shall:

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- 37.6.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
 - 37.6.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;
 - 37.6.3 include in contracts with its Subcontractors and suppliers provisions which are at least as onerous as those set out in this clause 37.
 - 37.6.4 notify the Authority as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.
 - 37.6.5 maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Authority in connection with this Contract; and permit the Authority and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 37.
- 37.7 The Supplier represents and warrants that it not has been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 37.8 The Authority may terminate this Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause 37.

38 EQUALITY AND DIVERSITY

- 38.1 The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Human Rights Act 1998, the Equality Act 2010 or other relevant or equivalent Laws from time to time in force (including any equivalent legislation in force in any other jurisdiction in which any activities are carried out under or in connection with this Contract by the Supplier or any of its employees or Sub-Contractors or its employees), or any statutory modification or re-enactment thereof.
- 38.2 The Supplier shall take all reasonable steps to secure the observance of clause 38.1 by all employees, agents and Sub-Contractors.

39 ANTI-BRIBERY AND FRAUD

- 39.1 The Supplier shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act relating to obtaining or the signing of the Contract or any other contract with the Authority or any other public body or showing or refraining from showing favour or disfavour to any person, in relation to the Contract or any other contract with the Authority, or if similar acts have been done by any person employed by the Supplier, or acting on the Supplier's behalf (whether with or without the knowledge of the Supplier).
- 39.2 The Supplier warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Supplier or any other public body in connection with the Contract.

- 39.3 The Supplier shall:
- 39.3.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
 - 39.3.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 39.3.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 39.3.2, and will enforce them where appropriate;
 - 39.3.4 promptly report to the Authority any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract;
 - 39.3.5 immediately notify the Authority if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract); and
 - 39.3.6 ensure that all persons associated with the Supplier or other persons who are performing services in connection with this Contract comply with this clause 39.
- 39.4 The Supplier shall not engage in any activity practice or conduct which would constitute an offence under the Prevention of Corruption Acts 1889 to 1916 or Fraud Act 2006.
- 39.5 The Supplier shall not receive any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.
- 39.6 Breach of this clause 39 shall entitle the Authority to terminate this Contract with immediate effect.
- 39.7 In the event of any breach of this clause 39 by the Supplier or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Supplier):
- 39.7.1 the Supplier shall immediately give the Authority full details of any such breach and shall co-operate fully with the Authority in disclosing information and documents which the Authority may request; and/or
 - 39.7.2 the Authority shall (without prejudice to any of its rights or remedies under this Contract or otherwise) be entitled by notice in writing to terminate this Contract immediately; and
 - 39.7.3 the Supplier shall be liable for and shall indemnify and keep the Authority and the Chief Constable indemnified in respect of any and all loss resulting from such termination.
- 39.8 In any dispute, difference or question arising in respect of:
- 39.8.1 the interpretation of this clause 39; or
 - 39.8.2 the right of the Authority to terminate this Contract; or
 - 39.8.3 the amount or value of any gift, consideration or commission
- the decision of the Authority shall be final and conclusive.

40 DATA PROTECTION

- 40.1 The Supplier warrants that it will comply with the Data Protection Legislation and this clause is in addition to, and does not relieve, remove or replace the Supplier's obligations under the Data Protection Legislation.
- 40.2 The Supplier agrees that if it acts at any time under this Contract as a Data Processor of the Data Controller's Data, it shall enter into a data processing contract in the relevant Data Controller's standard form, such data processing contract to include the Data Processing Details setting out the scope, nature and purpose of the Processing by the Supplier, the duration of the Processing, the types of the Data Controller's Data and categories of Data Subject involved and the obligations and rights of the Supplier and the Data Controller.
- 40.3 The Supplier shall comply at all times with its obligations under the data processing contract referred to in clause 40.2 above and shall only Process the Data Controller's Data to the extent, and in such a manner, as is necessary for the purposes identified by the Data Controller and in the manner specified by the Data Controller and for no other purpose or in any manner except on the written instructions of the Data Controller or as required by any Laws. The Supplier shall not determine at any time the purpose or means of the Processing and, if it is so required by any Laws, the Supplier shall promptly notify the Data Controller before Processing the Data Controller's Data unless prohibited by such Laws. The Supplier will keep a record of any Processing of the Data Controller's Data it carries out under the Contract.
- 40.4 In addition to the provisions of any data processing agreement, where the Supplier processes Data Controller's Data on behalf of either the Authority or the Chief Constable if applicable, the following provisions of this clause 40 shall apply.
- 40.5 The Supplier shall notify the Authority immediately if it considers that any of the Data Controller's instructions infringe the Data Protection Legislation.
- 40.6 The Supplier shall provide all reasonable assistance to the Data Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Data Controller, include:
- 40.6.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 40.6.2 an assessment of the necessity and proportionality of the Processing operations in relation to the Services;
 - 40.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 40.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 40.7 The Supplier shall Process Personal Data only to the extent, and in such a manner, as is necessary for the purposes specified in the Data Processing Details Form and in accordance with the Data Controller's instructions if applicable from time to time and shall not Process the Personal Data for any other purpose. The Supplier will keep a record of any Processing of Personal Data it carries out under this Contract.
- 40.8 The Supplier shall promptly comply with any request from the Data Controller requiring the Supplier to amend, transfer or delete the Personal Data.
- 40.9 The Supplier shall only collect any Personal Data in a form which is fully compliant with the Data Protection Legislation which will contain a data protection notice informing the Data Subject of the identity of the Data Controller, the identity of any data protection representative it may have

appointed, the purposes or purposes for which their Personal Data will be Processed and any other information which is necessary having regard to the specific circumstances in which the data is, or is to be, Processed to enable Processing in respect of the Data Subject to be fair.

- 40.10 If the Supplier receives any complaint, notice or communication which relates directly or indirectly to the Processing of the Personal Data or to either Party's compliance with the Data Protection Legislation and the data protection principles set out therein, it shall immediately notify the Data Controller and it shall provide the Data Controller with full co-operation and assistance in relation to any such complaint, notice or communication.
- 40.11 At the Data Controller's request, the Supplier shall provide to the Data Controller a copy of all Personal Data held by it in the format and on the media reasonably specified by the Data Controller.
- 40.12 The Supplier shall not transfer the Personal Data outside the European Economic Area without the prior written consent of the Data Controller and in accordance with the Data Protection Legislation.
- 40.13 The Supplier shall promptly inform the Data Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Supplier will restore such Personal Data at its own expense.
- 40.14 The Supplier shall ensure that access to the Personal Data is, in accordance with the Data Protection Legislation, limited to:
- 40.14.1 those employees who need access to the Personal Data to meet the Supplier's obligations under this Contract; and
 - 40.14.2 in the case of any access by any employee, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.
- 40.15 The Supplier shall ensure that all employees:
- 40.15.1 are informed of the confidential nature of the Personal Data;
 - 40.15.2 have undertaken training in the Data Protection Legislation relating to handling Personal Data; and
 - 40.15.3 are aware both of the Supplier's duties and their personal duties and obligations under the Laws, the Data Protection Legislation and this Contract.
- 40.16 The Supplier shall take reasonable steps to ensure the reliability of any of the Supplier's employees who have access to the Personal Data including any vetting status required.
- 40.17 The Supplier shall provide the Data Controller with full co-operation and assistance in relation to any request made by a Data Subject to have access to that person's Personal Data.
- 40.18 The Supplier shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Data Controller or as provided for in this Contract in accordance with the Data Protection Legislation.
- 40.19 The Supplier warrants that:
- 40.19.1 it will Process the Personal Data in compliance with the Data Protection Legislation;
 - 40.19.2 where applicable, it will comply with all obligations of any data Processing contract the Data Controller requires the Supplier to sign; and
 - 40.19.3 it will take appropriate technical and organisational measures against the unauthorised or unlawful Processing of Personal Data and against the accidental

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loss or destruction of, or damage to, Personal Data to ensure the Data Controller's compliance with the seventh data protection principle.

- 40.20 The Supplier shall notify the Data Controller immediately if it:
- 40.20.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 40.20.2 receives a request to rectify, block or erase any Personal Data;
 - 40.20.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 40.20.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract; or
 - 40.20.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law.
- 40.21 The Supplier shall notify the Data Controller immediately if it becomes aware of any unauthorised or unlawful Processing, loss of, damage to or destruction of the Personal Data.
- 40.22 The Supplier shall, at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination of the Contract unless the Supplier is required by Law to retain the Personal Data.
- 40.23 The Supplier agrees to indemnify and keep indemnified and defend at its own expense the Data Controller against all costs, claims, damages or expenses incurred by the Data Controller or for which the Data Controller may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this clause 40.
- 40.24 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- 40.24.1 notify the Data Controller in writing of the intended Sub-processor and processing;
 - 40.24.2 obtain the written consent of the Data Controller;
 - 40.24.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 40 such that they apply to the Sub-processor; and
 - 40.24.4 provide the Data Controller with such information regarding the Sub-processor as the Data Controller may reasonably require.
- 40.25 The Supplier shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 40.26 The Supplier shall comply with the Data Controller's baseline security requirements as updated from time to time by the relevant body and notified to the Supplier.
- 40.27 If requested by the Authority, the Supplier will enter into a Security Aspects Letter ("SAL") with the relevant force if applicable and the Supplier shall comply with that the protocols set out in that SAL. In the event the Supplier fails to adhere to the SAL protocols, the Authority shall have the right to terminate this Contract and to recover from the Supplier the amount of any loss resulting from any such termination.

41 FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

- 41.1 The Supplier acknowledges that the Authority and the Chief Constable are subject to the requirements of the Freedom Of Information Act 2000, (FOIA), and the Environmental Information Regulations 2004 (EIR) and the Supplier agrees to assist and cooperate with the

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Authority and the Chief Constable (at the Supplier's expense) as mandated by the Data Controller in relation to the aforementioned laws.

- 41.2 Any Requests received by the Supplier shall be forwarded to the Data Controller immediately.
- 41.3 The provisions of this clause 41 shall extend to Sub-Contractors and the Supplier shall ensure compliance with this requirement.
- 41.4 The Supplier acknowledges that the Authority and the Chief Constable if applicable may, acting in accordance with the FOIA or the EIR, be obliged to disclose information relating to this Contract (including commercially sensitive information subject to the application of any relevant exemption and, where applicable, the public interest test):
 - 41.4.1 without consulting with the Supplier; or
 - 41.4.2 following consultation with the Supplier and having taken the Supplier's views into account: or
 - 41.4.3 in accordance with legislation and procedural transparency requirements.
- 42.5 Where it is necessary for the Supplier to provide information to the Authority which it believes to be information falling into the exemptions set out in the FOIA ("Exempt Information"), it shall state in writing to the Authority the nature of the information and the relevant exemption. The Authority will use reasonable endeavours to consult with the Supplier before disclosing such information under the FOIA. The Supplier acknowledges that the final decision whether to disclose such information will rest with the Employer and not with the Supplier. Nothing contained in this Contract or any documents or negotiations relating to this Contract shall prevent the Authority from disclosing any information which (in the Authority's reasonable opinion or in accordance with any recommendation, notice or decision of a competent authority) it is required to disclose under the FOIA.
- 42.6 When requested to do so by the Authority, the Supplier shall promptly provide the information in its possession relating to this Contract and shall assist and co-operate with the Authority to enable the relevant Data Controller to respond to a Request within the time limit set out in the relevant legislation.
- 42.7 The Supplier shall observe the Authority's Retention and Destruction Policy (details of which shall be provided by the Authority to the Supplier upon request) and shall not destroy information other than in accordance with this policy. If the Authority notifies the Supplier of a request for information held by the Supplier, which is due for destruction the Supplier shall immediately suspend destruction of that information to allow disclosure to take place. Upon the termination of this Contract the parties shall agree which party has the control of the retained information. Should the Supplier retain control of the information this clause shall remain in force beyond the termination of this Contract.
- 42.8 The Supplier shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed.
- 42.9 The Supplier shall indemnify the Authority and the Chief Constable if applicable against all claims, demands, actions, costs, proceedings and liabilities that the Authority and the Chief Constable directly incurs due to the Supplier's or any Sub-contractor breach of this clause or any part of it.

42 RE-TENDERING AND HANDOVER

- 42.1 Within twenty eight (28) days of being so requested by the Authority, the Supplier shall provide, all the information necessary to enable the Authority to issue invitations to tender for the future

provision of the Equipment and Services including (but not limited to) the information relating to employees who will or may transfer as detailed in clause 42.2 below, and the Supplier hereby agrees to the use of such information for these express and any implied purposes. For the avoidance of any doubt all or any such information can be requested by the Authority at any time whether in relation to an intention to issue such an invitation or otherwise.

- 42.2 Where, in the opinion of the Authority, TUPE may apply to this Contract on its termination or expiration, the information to be provided by the Supplier under clause 42.1 shall include, as applicable, accurate information relating to the employees (whether of the Supplier or any Sub-Contractor or other organisation) whose employment would or may be transferred pursuant to TUPE, including in particular but not limited to:
- 42.2.1 the number of employees who would be transferred and their job titles, but with no obligation on the Supplier to specify their names save as permitted by TUPE;
 - 42.2.2 sufficient details of the work undertaken by each of the employees who will or may transfer under TUPE to enable the Authority and/or any replacement supplier to take their own informed view as to whether TUPE will or could apply (including sufficient details, particulars and breakdown of working time as is reasonably required or requested);
 - 42.2.3 their dates of birth, sex, salary, length of service, hours of work, salary and/or pay rates, and any other factors affecting their redundancy entitlement, any specific terms applicable to those employees individually whether during their employment or on its termination;
 - 42.2.4 details of any disciplinary action taken within the previous two years in respect of the employees;
 - 42.2.5 details of any grievances brought by the employees in the previous two years;
 - 42.2.6 details of any outstanding claims arising from the employees' employment or its termination including any claims which the Supplier believes those employees might bring; and
 - 42.2.7 the terms and conditions of employment applicable to those employees, including but not limited to probationary periods, information relating to pension entitlements or provision, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave (and details of how pay for annual leave is calculated), sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any relevant collective agreements, facility time arrangements and additional employment benefits.
- 42.3 The Supplier shall comply with its obligations under TUPE where applicable (including without limitation its duties to inform and consult under Regulation 13 of TUPE) pursuant to this Contract and shall indemnify the Authority and the Chief Constable and any replacement supplier against any claims sustained as a result of any breach of this clause or any award of compensation under Regulation 15 save where such failure arises from the failure of the Authority or the Chief Constable or any replacement supplier to comply with its or their duties under Regulation 13 of TUPE.
- 42.4 The Supplier shall indemnify the Authority and the Chief Constable against any claim made against the Authority or the Chief Constable or any replacement supplier at any time by any person in respect of the liability incurred by the Authority or the Chief Constable or any

replacement supplier arising from any deficiency or inaccuracy in information, which the Supplier is required to provide under clauses 42.1, 42.2 and/or TUPE.

- 42.5 The Supplier shall co-operate fully with the Authority or the Chief Constable during the handover arising from the completion or earlier termination of this Contract. This co-operation, during the setting up operations period of the replacement Supplier (if any), shall extend to allowing full access to, and providing copies of all documents, reports, summaries and other information necessary in order to achieve an effective transition and if required, access to the Supplier's employees including those who the Supplier considers will transfer pursuant to TUPE to the Authority or the Chief Constable or a replacement supplier on the termination of this Contract.
- 42.6 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Authority, the Chief Constable, any replacement supplier and/or any replacement Sub-Contractor to ensure the smooth transfer of any employees who transfer under TUPE on the termination of this Contract including providing sufficient information in advance of the transfer date to ensure that all necessary payroll arrangements can be made to enable the transferring employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the transfer date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority or the Chief Constable or, at the direction of the Authority, to any replacement supplier and/or any replacement Sub-Contractor (as appropriate), in respect of each transferring employee:
- 42.6.1 the most recent month's copy pay slip data;
 - 42.6.2 details of cumulative pay for tax and pension purposes;
 - 42.6.3 details of cumulative tax paid;
 - 42.6.4 tax code;
 - 42.6.5 details of any voluntary deductions from pay; and
 - 42.6.6 bank/building society account details for payroll purposes.
- 42.7 Where TUPE does not apply to this Contract on its termination or expiration, the Supplier shall retain all responsibility for outgoings in respect of its employees after the end of this Contract including without limitation all wages, holiday pay, bonuses, commission, payment of PAYE, national insurance contributions, pension contributions, redundancy costs and otherwise and shall indemnify the Authority and the Chief Constable and any replacement supplier against any claims sustained as a result of any breach of this clause.

43 EMPLOYEES AND TUPE

- 43.1 If TUPE applies to a number of staff engaged in the provision of services equivalent to the Services (or some of them) prior to the start of the Contract Period, the contracts of employment (together with any collective agreement) of such staff (subject to Regulation 4(7) of TUPE) will be from the Commencement Date as if they were originally made between the relevant staff member and the Supplier.
- 43.2 The Supplier shall take all necessary steps including those required by Law to ensure that all employees, servants or agents of the Supplier and any Sub-Contractors, their employees, servants or agents, employed in the execution of this Contract have the right to work in the United Kingdom, have complied and will in the future comply with any restrictions in force concerning their right to work in the United Kingdom (including but not limited to any restrictions on their hours of work) and are not claiming any benefit payable to jobseekers.

- 43.3 During the Contract Period the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Authority any information they may reasonably require relating to the manner in which the Services are organised, which shall include, but is not limited to, the following:
- 43.3.1 the numbers of employees engaged in providing the Services;
 - 43.3.2 the percentage of time spent by each employee engaged in providing the Services; and
 - 43.3.3 a description of the nature of the work undertaken by each employee by location.
- 43.4 The Supplier shall indemnify and keep indemnified the Authority and the Chief Constable against any loss incurred by the Authority or any replacement supplier connected with or arising from any claim or proceedings by any trade union, elected employee representative or staff association made against the Authority or the Chief Constable or any replacement supplier in respect of any or all of the Supplier's staff or employees or any other employee of the Supplier or its Sub-Contractors and which arises from or is connected with any failure by the Supplier to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 or TUPE.
- 43.5 The Supplier shall indemnify and keep indemnified the Authority and the Chief Constable against any claim demand or loss incurred by the Authority or the Chief Constable or any replacement supplier at any time whether connected with or arising from the employment of or any policy applicable to, or any collective agreement in respect of any of the Supplier's staff or any other person at any time employed by (or engaged by) the Supplier or its Sub-Contractors or otherwise including but not limited to any claims for: breach of contract; breach of policy; unfair dismissal; a redundancy payment; pay including a claim for unlawful deductions from wages and/or any claim in relation to holiday pay entitlement; discrimination; equal pay; industrial or personal injury; a claim for failure to consult, claims arising by virtue of custom and practice, any claims or demand from HMRC or any other statutory authority which relates to financial obligations but not limited to PAYE, and primary and secondary national insurance contributions; or otherwise relating to their employment by the Supplier save to the extent that the liability arises from any wrongful act by the Authority or the Chief Constable or its employees.
- 43.6 The Supplier shall indemnify and keep indemnified the Authority against any loss incurred from any change or proposed change to the terms and conditions of employment of any or all of the Supplier's staff or any other employee of the Supplier or its Sub-Contractors where such change is or is proposed to be effected following the transfer of any such person pursuant to this Contract and in respect of any loss incurred by the Authority or any replacement supplier arising from the employment or proposed employment of any such person otherwise than on terms the same as those enjoyed by any such person immediately prior to such transfer.
- 43.7 Except with the prior written consent of the Authority, the Supplier shall not at any time after the Authority has served notice of the termination of this Contract, within twelve months of the date upon which this Contract will terminate in accordance with its provisions, or after the Supplier shall have otherwise become aware of the proposed termination or re-tendering of this Contract, any Contract or the provision by it of the Equipment and Services in respect of any employee employed by or assigned by the Supplier or its Sub-Contractors to the discharge of this Contract:
- 43.7.1 vary any terms and conditions of employment of any employee or any policy or collective agreement applicable to any employee (provided always that this

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- provision shall not affect the right of the Supplier to give effect to any pre-existing contractual obligation to any such employee);
- 43.7.2 remove or replace any particular employee or significantly alter the proportion of work which such employee undertakes on work arising from the provision of Equipment or services under this Contract (unless requested by such employee or upon the resignation of such employee in which case the Supplier shall replace such person with another person of similar skills, qualifications and experience);
- 43.7.3 increase or decrease the number of employees or Sub-Contractors engaged in the discharge of the Contract.
- 43.8 The Supplier shall indemnify and keep indemnified and hold harmless the Authority and Chief Constable and any replacement supplier from and against all liabilities whatsoever (to include legal expenses on a full indemnity basis) (and including but without limitation any claim by or liability to a Sub-Contractor or any employee, agent or independent contractor of such Sub-Contractor or any other person whatsoever) arising out of any breach by the Supplier or any of its Sub-Contractors of clause 43.7.
- 43.9 The Authority and Supplier shall continue to monitor the performance and objectives of this Contract throughout its duration and to make any amendments or changes necessary to this Contract, or its performance or objectives in order further to promote equality, diversity and equal opportunity.
- 43.10 The Supplier shall notify the Authority immediately in writing as soon as it becomes aware of any investigation or proceedings brought against it in relation to equality, diversity or equal opportunity whether under the Act or otherwise.
- 43.11 Where any investigation is undertaken by a person or body empowered to conduct such an investigation and/or proceedings are instituted following such an investigation against the Supplier or against the Authority either in connection with any contract awarded to the Supplier or generally, the Supplier shall, without charge:
- 43.11.1 provide any information requested by or on behalf of the Authority in the timescale allotted;
- 43.11.2 attend and permit its employees, workers, agents, consultants and Sub-Contractors to attend any meetings as required;
- 43.11.3 allow the Authority access to and investigation of any information, documents or data deemed to be relevant to the investigation;
- 43.11.4 allow itself and any of its employees, workers, agents, consultants and Sub-Contractors to appear as witnesses in any proceedings; and
- 43.11.5 co-operate fully with the person or body conducting the investigation.
- 43.12 Where any investigation is conducted, or proceedings are brought which arise directly or indirectly out of any act or omission of the Supplier, its staff, employees, workers, consultants, agents or Sub-Contractors and where there is a finding against the Supplier in any such investigation or proceedings, the Supplier shall indemnify and keep indemnified and hold harmless the Authority and the Chief Constable with respect to all costs, charges and expenses (including legal and administrative expenses on an indemnity basis) incurred by the Authority during or in connection with any such investigation or proceedings and further indemnify and keep indemnified and hold harmless the Authority from and against all and any compensation, damages, costs, losses, fines, penalties or other award (including any interest) the Authority may be ordered or required to pay.

- 43.13 If a finding of unlawful discrimination or breach of equal opportunities legislation (including but not limited to the Act) is made against the Supplier or against the Authority arising from the conduct of the Supplier or any of its employees, workers, consultants, agents or Sub-Contractors, the Supplier shall take immediate remedial steps to prevent further recurrences and shall advise the Authority of the steps taken.
- 43.14 If the Supplier enters into any sub-contract as authorised in this Contract in connection with this Contract, it shall impose obligations and terms on its Sub-Contractors which are identical to those imposed on it by this clause 43. The Authority expects that the Supplier will not sub-contract to any person, organisation, business, service or group which has a poor history in regard to acts of unlawful discrimination. Any breach of this clause will be considered by the Authority as a fundamental breach of the contract between the Authority and the Supplier.
- 43.15 Without prejudice to its remedies set out above, the Authority may terminate this Contract if notice has been given to the Supplier of a substantial or persistent breach of this section providing that in the case of persistent breach the Supplier has been given a reasonable period to rectify the breach and the Supplier has failed to do so.
- 43.16 The Supplier shall comply with the Authority's policies and procedures to prevent unlawful discrimination because of a Protected Characteristic from time to time.
- 43.17 The Supplier warrants that its own practices and procedures comply with the Equality Act 2010 and that its employees, workers, consultants and/or Sub-Contractors are fully trained on matters relating to the prevention of unlawful discrimination and the promotion of equality and diversity and shall comply with the Authority's policies and procedures to prevent unlawful discrimination because of a Protected Characteristic from time to time.

44 VETTING

- 44.1 The Authority may request any such employees of the Supplier, or any Sub-Contractor, who are involved in delivering the Equipment or performing the Services, that it deems necessary to undergo a security vetting procedure or have the Authority's approval and secure vetting to the appropriate level prior to commencing any work on this Contract.
- 44.2 To facilitate the relevant vetting when so requested by the Authority, the Supplier shall provide a list of the names and addresses of all persons (if any) who it is expected will be engaged in the provision of the Equipment and Services, specifying the capacities in which they are concerned with this Contract and giving such other particulars as the Authority may reasonably require to permit appropriate security checking. This may include the requirement for the individuals concerned to provide personal details about family members and financial circumstances and make a personal declaration as to the accuracy of the information provided.
- 44.3 For the avoidance of doubt, where the Authority has requested employees to undergo security vetting, only employees who have completed the vetting process and/or received written confirmation of their successful application can work on this Contract.
- 44.4 If requested by the Authority, the Supplier will be responsible for the vetting costs of all employees, or any Sub-contractor, who are required to be vetted under clause 44.1.
- 44.5 The Authority does not accept liability for delays relating to the period between vetting forms being submitted to the Authority and confirmation to the Supplier of the vetting application outcome.
- 44.6 The outcome of vetting and the decision from the Authority is final and binding. Employees who have not received vetting clearance by the Authority are not permitted to work on this Contract and the Supplier shall replace any of its employees who, the Authority shall have decided in its

absolute discretion, have failed the appropriate security checking. The Authority shall not have to disclose why an employee has failed security checking. Following the removal of any of the Supplier's employees for failing vetting, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of this Contract.

- 44.7 The Supplier is responsible for ensuring all personnel supporting the contract, including but not limited to, Sub-Contractors employees are successfully vetted in line with Good Industry Practice and any requested vetting by the Authority and shall ensure throughout the term of this Contract that they are at all times compliant with the vetting requirements of the Authority.
- 44.8 It is the Supplier's responsibility to ensure all staff working, who need to be vetted in accordance with clause 44.1 above, submit completed forms and supply any information required by the Authority's vetting unit and any changes in circumstances that occur after vetting has taken place during the term of this Contract are notified to the Authority. Any delay in the performance of this Contract resulting from the Supplier's employees or Sub-Contractor employees not submitting fully and accurately completed forms and submitting any further information required or from declined vetting applications shall be the responsibility of the Supplier.
- 44.9 The Supplier shall keep an accurate and up to date record of their vetted employees and Sub-Contractors employees and must ensure that vetting remains current for any individual involved in the delivery of this Contract.

45 INDEPENDENT POLICE COMPLAINT COMMISSION

The Supplier must ensure that their staff are made aware of the ability of the Independent Police Complaints Commission to investigate any matters reported to them under the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 including but not limited to the conduct of the Supplier and their staff.

46 RECORDS AND AUDIT ACCESS

- 46.1 The Supplier shall keep and maintain for seven (7) years after the Expiry Date (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Contract including the Services provided under it, any Sub-Contracts and the amounts paid by the Authority.
- 46.2 The Supplier shall keep the records and accounts referred to in clause 46.1 in accordance with Good Industry Practice and all Laws.
- 46.3 the Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditors is outside of the control of the Authority.
- 46.4 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in relation to each Audit, including by providing:
- 46.4.1 all information within the scope of the audit requested by the Auditor;
 - 46.4.2 reasonable access to any sites controlled by the Supplier and to equipment used in the provision of the Services; and
 - 46.4.3 access to the Supplier's personnel.

- 46.5 If an audit reveals that the Supplier has overpaid any Charges due in respect of any one Contract Year or year of any Contracts then, without prejudice to the Authority's other rights under this Contract, the Supplier shall reimburse the Authority such overpaid Charges and its reasonable costs incurred in relation to the audit.
- 46.6 If an audit reveals that a material Default has been committed by the Supplier, the Authority shall be entitled to terminate this Contract.
- 46.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the audit.

47 DISPUTE RESOLUTION PROCEDURE

- 47.1 If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it ("**Dispute**") then except as expressly provided in this Contract, the Parties shall follow the procedure set out in this clause:
 - 47.1.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Person and this Contract Manager shall attempt in good faith to resolve the Dispute;
 - 47.1.2 if the Authorised Person and this Contract Manager are for any reason unable to resolve the Dispute within the reasonable timescale set out in the Dispute Notice, the Dispute shall be referred to the appropriate senior member of procurement staff of the Authority and a similarly suitable employee of the Supplier who shall attempt in good faith to resolve it; and
 - 47.1.3 if the appropriate employees referred to in clause 47.1.2 are for any reason unable to resolve the Dispute within a reasonable time of it being referred to them, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a Party must serve notice in writing ("**ADR Notice**") to the other Party to the Dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR Solve. The mediation will start not later than the date set out in the ADR Notice.
- 47.2 Subject to clause 47.3 below, no Party may commence any court or arbitration proceedings in relation to the whole or part of the Dispute until the mediation has taken place, provided that the right to issue proceedings is not prejudiced by a delay.
- 47.3 If the Dispute is not resolved at mediation or either Party fails to participate or to continue to participate in the mediation, the Dispute may be finally resolved by the courts of England and Wales in accordance with clause 56.10 in this Contract.

48 IT SECURITY

- 48.1 The Supplier shall, as an enduring obligation throughout the Contract Period use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties).
- 48.2 Notwithstanding clause 48.1, 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 Authority Data, assist each other to mitigate any losses and to restore the provision of the Services to its desired operating efficiency.

- 48.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause 48.2 shall be borne by the Parties as follows:
- 48.3.1 by the Supplier, where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Authority has waived the obligation set out in clause 48.1) or the Authority Data (whilst the Authority 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 Authority when provided to the Supplier; and
 - 48.3.2 by the Authority if the Malicious Software originates from the Authority Software (in respect of which the Authority has waived its obligation set out in clause 48.1) or the Authority Data (whilst the Authority Data was under the control of the Authority).
- 48.4 The provision of the Deliverables and/or the Services by the Supplier may be subjected to the Authority's IT security review processes at the Authority's reasonable cost on reasonable notice and during reasonable working hours in the following areas:
- 48.4.1 design and architecture review;
 - 48.4.2 infrastructure security review;
 - 48.4.3 penetration testing review; and
 - 48.4.4 External Security Review,
each as described in more detail below.
- 48.5 A design and architecture review is conducted to validate the security-related design features of the Deliverables and/or the Services. It focuses on identifying and mitigating the security vulnerabilities of the Deliverables and/or the Services with respect to all the layers (presentation, business, and database). Also, this would review operational aspects like identity and access management and how they will be integrated with existing the Authority's systems:
- 48.5.1 to carry out the review, access is required to the technical design documents of the product;
 - 48.5.2 the Authority's IT security team shall send a security questionnaire to the Supplier's Representative which shall be completed and returned to the Authority's within fifteen Working Days; and
 - 48.5.3 on receipt of the filled questionnaire and above technical documents, the Authority's will review various security mechanisms and how these have been implemented in the Deliverables and/or the Services.
- 48.6 An infrastructure security review requires an overview of the process from the perspective of both the Authority's business and the Supplier. The Supplier will need to supply:
- 48.6.1 technical diagrams showing the infrastructure design/layout and logical position of systems;
 - 48.6.2 a list of protocols and ports where applicable to the Deliverables and/or the Services; and
 - 48.6.3 a list of infrastructure components (operating systems and applications specifically) which should also be included on the technical diagram.

- 48.7 Infrastructure security reviews are usually conducted by the Authority's IT security team unless otherwise decided by the Authority.
- 48.8 A penetration testing review focuses on detecting and mitigating application level security vulnerabilities. It specifically targets and attempts to exploit an application's security vulnerabilities and its supporting components (Application, Application server, Web server & Database server).
- 48.9 Penetration testing is a combination of automated and manual testing and does not assess infrastructure components, such as networks, firewalls and routers.
- 48.10 Penetration testing is a method of evaluating the security of an application by simulating an attack as that of a malicious hacker. The process involves an active analysis of the system for any weaknesses, technical flaws or vulnerabilities.
- 48.11 Testing is conducted only on the test environment and is prohibited to be conducted on a production environment.
- 48.12 In addition to the reviews set out above, the Authority's may carry out a security review of the Supplier's own processes which will involve the completion by the Supplier of a vendor security questionnaire and in some cases, attendance at the Supplier's premises by FIL's IT security representative, an "External Security Review" or "ESR".
- 48.13 The Authority's may carry out an External Security Review of the Supplier's processes upon commencement and during the term of this Contract. Such review will not be carried out more than once in each year of this Contract Period, unless there is a significant change that would necessitate an additional ESR. Such significant changes might include or be related to; services, Sub-Contractors, location of the Supplier's site(s), processes or ownership.
- 48.14 The Authority's security team shall send a security questionnaire to the Supplier's Representative which should be completed and returned to the Authority within fifteen Working Days.
- 48.15 On receipt of the questionnaire, the Authority's IT security team may contact the Supplier to schedule an on-site External Security Review. The Supplier shall co-operate with the Authority's reasonable timescales for this review.
- 48.16 When the Authority's representative attends the Supplier's premises for an External Security Review, the Supplier shall provide FIL's representative with a point of contact and access as is reasonably required to the areas of the Supplier's site and offices that are in scope for review.
- 48.17 The Authority's IT security team may provide reasonable recommendations to the Supplier regarding its processes, software or applications following any of the reviews as described in this clause 48. The Authority will provide these recommendations whilst having regard to:
- 48.17.1 Good Industry Practice, such as that contained in ISO27001; and
 - 48.17.2 the purposes under this Contract for which the Supplier's processes, software or applications interface with the Authority's systems.
- 48.18 The Supplier will respond to such recommendations by indicating whether in fact its processes, software or applications comply with such recommendations together with:
- 48.18.1 any proposed timescales for remediation or improvement of such processes, software or applications to comply with such recommendations; or
 - 48.18.2 any best efforts, workarounds, alternative risk mitigation measures or other steps or activities that are proposed in order to address any such recommendations.

- 48.19 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- 48.20 The Supplier shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise Approved by the Authority.
- 48.21 To the extent that the Authority Data is held and/or Processed by the Supplier, the Supplier shall supply that Authority Data to the Authority as requested by the Authority and in the format (if any) specified in this Contract and in any event as specified by the Authority from time to time in writing.
- 48.22 The Supplier shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of Authority Data.
- 48.23 The Supplier shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site at an Approved location in accordance with any BCDR Plan or otherwise. The Supplier shall ensure that such back-ups are available to the Authority (or to such other person as the Authority may direct) at all times upon request and are delivered to the Authority at no less than six (6) monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 48.24 The Supplier shall ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy and the Security Management Plan (if any).
- 48.25 If at any time the Supplier suspects or has reason to believe that the Authority Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.
- 48.26 If the Authority Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Authority may:
- 48.26.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of Authority Data as required by the Authority, and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Authority's notice; and/or
 - 48.26.2 itself restore or procure the restoration of Authority Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so.
- 48.27 The Supplier shall fully and on demand indemnify and keep indemnified the Authority against any and all claims, demands and proceedings and any and all claims, losses or damages suffered, sustained or incurred by the Authority arising from or connected with the Supplier or any Supplier Representative breaching or not complying with this clause 48.

49 TRANSPARENCY

- 49.1 Following the publication of the Statutory Instrument 2012 - Amendment 2479 (<http://www.legislation.gov.uk/uksi/2012/2479/made>), all Police Forces of England and Wales have an obligation to make publicly available a copy of each contract with a value exceeding £10,000 to which (i) the elected local policing body, or (ii) the chief officer of the police force maintained by the body, is or is to be a party.
- 49.2 As part of the transparency agenda, Government has made the following commitments with regard to procurement and contracting:

- 49.2.1 All new contracts over the value of £10,000 to be published in full online;
- 49.2.2 All items of spending over £500 per month to be published online.
- 49.3 To meet this requirement the Authority intends to publish all contracts over a value exceeding £10,000 on the Freedom of Information (FOI) page of the Bluelight Procurement Database (www.blpd.gov.uk).
- 49.4 The full list of criteria for which redactions may be permitted as set out as follows:
 - 49.4.1 Exemptions (absolute or qualified) provided for by the Freedom of Information Act 2000, regarding the disclosure of information;
 - 49.4.2 Provisions provided for in the Public Contracts Regulations 2015, regarding the disclosure of confidential information;
 - 49.4.3 Protection of personal privacy as required under the Data Protection Act;
 - 49.4.4 The protection of Intellectual Property Rights (IPR);
 - 49.4.5 Third party confidential information e.g. contracts with foster carers and child minders.
- 49.5 Information and guidance on understanding exemptions and other FOI matters can be accessed from the Information Commissioner's Office www.ico.gov.uk.

50 BUSINESS CONTINUITY

- 50.1 The Supplier shall ensure that it implements and maintains at all times a Business Continuity plan.
- 50.2 Where a Business Continuity Event affects the Authority, the Supplier shall comply with instructions from the Authority where applicable as to the order of priority in which the services should be restored.
- 50.3 The Supplier shall undertake regular risk assessments in relation to the provision of the Services not less than once every six (6) months (or such other period as the Parties agree in writing) (commencing from the start of this Contract) and shall provide the results of, and any recommendations in relation to, those risk assessments to the Authority promptly in writing following each review.
- 50.4 The Supplier shall establish, maintain and review its own internal processes and procedures with respect to the identification of any threats or risks to the provision of the Services, how such threats and risks may be mitigated and how the provision of the Services may be maintained in the event of any such identified threats or risks materialising.
- 50.5 In the event of any damage or destruction of any of the Authority's premises, equipment, infrastructure or records which results in the Authority moving all or part of its operations to an alternative site or sites ("Alternative Sites") or any disruption to the Authority's business operations which results in the Authority needing to invoke its disaster recovery or business continuity procedures, the Supplier agrees to provide the Authority with such assistance as it may reasonably request including where necessary by providing the Deliverables and/or the Services at such Alternative Sites in accordance with this Contract and any reasonable instructions of the Authority.
- 50.6 The Supplier shall fully and on demand indemnify and keep indemnified the Authority against any and all claims, demands and proceedings suffered, sustained or incurred by the Authority arising from or connected with the Supplier or its employees or agents breaching or not complying with this clause 50.

51 BARRED LIST

- 51.1 This clause 51 shall apply where the Services being provided under this Contract include functions of a public nature which relate to policing and law enforcement.
- 51.2 In accordance with the Part 4A of the Police Act 1996, no employees of the Supplier, or any Sub-Contractor, are permitted to be involved in the provision of the Services if they are on the police barred list published from time to time by the College of Policing (“Barred List”).
- 51.3 The Supplier is responsible for ensuring all personnel supporting the contract, including but not limited to, Sub-Contractors employees are not on the Barred List and shall ensure throughout the Contract Period that they are at all times compliant with the requirements of clause 51.2 above.
- 51.4 To enable the Authority to comply with its duties under Part 4A of the Police Act 1996, when so requested by the Authority, the Supplier shall provide a list of the names of all persons who it is expected will be engaged in the provision of the Goods and/or performance of the Services, specifying the capacities in which they are concerned with this Contract and giving such other particulars as the Authority may reasonably require to permit the Barred List and the Police Advisory List to be checked.
- 51.5 The outcome of any check made pursuant to clause 51.4 above and the decision from the Authority in respect of the same is final and binding. Employees who are found by the Authority or notified to the Authority as being on the Barred List are not permitted to work on this Contract and the Supplier shall replace any of its employees or Sub-Contractor’s employees who are on the Barred List.
- 51.6 Following the removal of any of the Supplier’s or Sub-Contractor’s employees in accordance with clause 51.5 above, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of this Contract.

52 IMPROVING VISIBILITY OF SUBCONTRACT OPPORTUNITIES AVAILABLE TO SMES AND VCSES IN THE SUPPLY CHAIN

- 52.1 This clause 52 and clause 53 shall apply where the advertised contract value for the Contract was valued above £5 million per annum,
- 52.2 The Supplier shall:
 - 52.2.1 subject to clause 52.4, advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the Goods and/or Services above a minimum threshold of £25,000 that arise during the term of the Contract;
 - 52.2.2 within 90 days of awarding a subcontract to a sub-contractor, update the notice on Contracts Finder with details of the successful sub-contractor;
 - 52.2.3 monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the term of the Contract;
 - 52.2.4 provide reports on the information at clause 52.2.3 to a Authority in the format and frequency as reasonably specified by the Authority; and
 - 52.2.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

- 52.3 Each advert referred to at clause 52.2.1 above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 52.4 The obligation at clause 52.2.1 shall only apply in respect of subcontract opportunities arising after the contract award date.
- 52.5 Notwithstanding clause 52.2, the Authority may by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder.

53 MANAGEMENT CHARGES AND INFORMATION

- 53.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME Management Information (MI) Reports to the Authority which incorporate the data described in the MI Reporting template which is:
 - 53.1.1 the total contract revenue received directly on a specific contract;
 - 53.1.2 the total value of sub-contracted revenues under the contract(including revenues for non-SMEs/non-VCSEs); and
 - 53.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 53.2 The SME Management Information Reports shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Authority from time to time. The Supplier shall use the initial MI Reporting Template which is set out in the Annex to Public Procurement Policy Note 01/08: Supply Chain Visibility Action and which may be changed from time to time (including the data required and/or format) by the Authority by issuing a replacement version. The Authority shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 53.3 The Supplier further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Authority.

54 FORCE MAJEURE

- 54.1 Subject to the remaining provisions of this clause 54 (and, in relation to the Supplier, subject to its compliance with its obligations in clause 50), a Party may claim relief under this clause 54 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Contract which results from a failure or delay by an agent, sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 54.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 54.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this clause 54 to the extent that consequences of the relevant Force Majeure Event:
 - (a) are capable of being mitigated by any of the Services but the Supplier has failed to do so; and/or

- (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract.
- 54.4 Subject to clause 54.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 54.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 54.6 Provided the Affected Party has complied with the clauses above, it shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations which is as a result of a Force Majeure Event and the time for performance of such obligations shall be extended accordingly.
- 54.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.
- 54.8 Relief from liability for the Affected Party under this Clause 54 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under clause 54.7.
- 54.9 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 6 weeks, the party not affected by the Force Majeure Event may terminate this Contract by giving 4 weeks' written notice to the Affected Party.

55 SUPPLY CHAIN RIGHTS AND PROTECTIONS

Appointment of Sub-contractors

- 55.1 The Supplier shall exercise due skill and care in the selection and appointment of any Sub-contractors to ensure that the Supplier is able to:
- 55.1.1 manage any Sub-contractors in accordance with Good Industry Practice;
 - 55.1.2 comply with its obligations under this Contract in the delivery of the Services; and
 - 55.1.3 assign, novate or otherwise transfer to the Authority or any replacement supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Contract.
- 55.2 Prior to sub-contracting any of its obligations under this Contract, the Supplier shall notify the Authority in writing of:
- 55.2.1 the proposed Sub-contractor's name, registered office and company registration number;
 - 55.2.2 the scope of any Services to be provided by the proposed Sub-contractor; and

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- 55.2.3 where the proposed Sub-contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-contract has been agreed on "arm's-length" terms.
- 55.3 If requested by the Authority within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 55.2, the Supplier shall also provide:
- 55.3.1 a copy of the proposed Sub-contract; and
- 55.3.2 any further information reasonably requested by the Authority.
- 55.4 The Authority may, within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 55.2 (or, if later, receipt of any further information requested pursuant to Clause 55.3), object to the appointment of the relevant Sub-contractor if it considers that:
- 55.4.1 the appointment of a proposed Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of the Authority;
- 55.4.2 the proposed Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;
- 55.4.3 the proposed Sub-contractor employs unfit persons; and/or
- 55.4.4 the proposed Sub-contractor should be excluded in accordance with Clause 55.1.2; in which case, the Supplier shall not proceed with the proposed appointment.
- 55.5 If the Authority has not notified the Supplier that it objects to the proposed Sub-contractor's appointment by the later of 10 Working Days of receipt of:
- 55.5.1 the Supplier's notice issued pursuant to Clause 55.2; and
- 55.5.2 any further information requested by the Authority pursuant to Clause 55.3; the Supplier may proceed with the proposed appointment.
- 55.6 Except where the Authority has given its prior written consent, the Supplier shall ensure that each Sub-contract shall include:
- 55.6.1 provisions which will enable the Supplier to discharge its obligations under this Contract;
- 55.6.2 a right under Contracts (Rights of Third Parties) Act 1999 for the Authority to enforce any provisions under the Sub-contract which are capable of conferring a benefit upon the Authority;
- 55.6.3 a provision enabling the Authority to enforce the Sub-contract as if it were the Supplier;
- 55.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Sub-contract to the Authority or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by the Authority;
- 55.6.5 obligations no less onerous on the Sub-contractor than those imposed on the Supplier under this Contract in respect of:
- (a) data protection requirements set out in clause 40 (*Data Protection*);
- (b) FOIA requirements set out in clause 41 (*Freedom of Information and environmental information regulations*);

- (c) vetting requirements set out in clause 44 (*Vetting*); and
 - (d) the keeping of records in respect of the services being provided under the Sub-contract in accordance with clause 46 (*Records and Audits access*);
- 55.6.6 provisions enabling the Supplier to terminate the Sub-contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under this Contract;
- 55.7 The Supplier shall not terminate or materially amend the terms of any Sub-contract without the Authority's prior written consent, which shall not be unreasonably withheld or delayed.

Supply chain protection

- 55.8 The Supplier shall ensure that all Sub-contracts (which in this sub-clause includes any contract in the Supplier's supply chain 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:
- 55.8.1 giving the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour law;
 - 55.8.2 requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
 - 55.8.3 that if the Supplier or other party fails to consider and verify an invoice in accordance with sub-paragraph (b), the invoice shall be regarded as valid and undisputed for the purpose of sub-paragraph (d) after a reasonable time has passed;
 - 55.8.4 requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding 30 days of verifying that the invoice is valid and undisputed;
 - 55.8.5 giving the Authority a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
 - 55.8.6 requiring the Sub-contractor to include a clause to the same effect as this clause in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract
- 55.9 The Supplier shall pay any undisputed sums which are due from it to a Sub-contractor within 30 days of verifying that the invoice is valid and undisputed;

Termination of Sub-contracts

- 55.10 The Authority may require the Supplier to terminate a Sub-contract where:
- 55.10.1 the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to clause 31 (Termination);
 - 55.10.2 the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law;
 - 55.10.3 there is a Change of Control of the relevant Sub-contractor, unless:
 - (a) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or

- (b) the Authority has not served its notice of objection within 6 months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control.

Retention of Legal Obligations

55.11 Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 55, the Supplier shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. In respect of any element of the Services delivered by Supplier Personnel and/or which are Sub-contracted by the Supplier, an obligation on the Supplier to do or to refrain from doing any act or thing under this Contract, shall include an obligation on the Supplier to procure that the Supplier Personnel and the Sub-contractor also do or refrain from doing such act or thing in their delivery of those elements of the Services.

Exclusion of Sub-contractors

55.12 Where the Authority considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:

- 55.12.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall replace or shall not appoint the Sub-contractor;
- 55.12.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to replace or not to appoint the Sub-contractor and the Supplier shall comply with such a requirement.

56 General

56.1 Assignment

- 56.1.1 The Authority may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Contract in the event of a change in the legal status of the Authority by reason of any statute.
- 56.1.2 The Supplier must not assign or transfer this Contract or any part, share or interest in it either directly or indirectly to any person.
- 56.1.3 The Supplier will be liable under this Contract irrespective of any sub-contracting.
- 56.1.4 If there is a breach of the provisions of this condition, the Authority shall be entitled to cancel this Contract immediately and clause 0 will apply.

56.2 Notices

- 56.2.1 Any notice or other communication given to a Party under or in connection with this Contract shall be in writing, addressed to the that Party at its registered office (if it is a company) or its principal place of business or such other address as either Party may have specified to the other Party) in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post, recorded delivery, commercial courier or fax.
- 56.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 56.2.1; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one Business Day after transmission.

56.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

56.3 Severance

56.3.1 If any court or competent authority finds that any provision of this Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Contract shall not be affected.

56.3.2 If any invalid, unenforceable or illegal provision of this Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

56.4 Variation

Subject to clause 17, no variation of this Contract, any Purchase Order, Purchase Order Amendment or any document referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the Parties (save for any documents referred to in this Contract which may expressly or implicitly vary from time to time). In the case of the Authority this must be by an Authorised Person.

56.5 Waiver

A waiver of any right or remedy under this Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

56.6 Third party rights

56.6.1 Except as expressly provided in clause 56.6.2 below, a person who is not party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

56.6.2 The Chief Constable also has the benefit of this Contract and is able to enforce all the Supplier's obligations set out in the Contract.

56.6.3 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Contract are not subject to any other party.

56.7 Counterparts

This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

56.8 Entire Agreement

56.8.1 This Contract, and any documents referred within it, constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

56.8.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently)

that is not set out in this Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Contract.

56.9 Status

56.9.1 The relationship of the Supplier (and the Supplier's employees) to the Authority will be that of independent contractor and nothing in this Contract shall render it (nor the Supplier's personnel) an employee, worker, agent or partner of the Authority or the Chief Constable and the Supplier shall not hold itself out as such and shall procure that the Supplier's employees shall not hold themselves out as such.

56.9.2 Neither the Supplier nor its employees shall in any circumstances hold itself or themselves out as being authorised to enter into any contract on behalf of the Authority, or in any other way to bind the Authority in the performance, variation, release or discharge of any obligation.

56.9.3 This Contract constitutes a contract for the provision of services and not a contract of employment and accordingly the Supplier shall be fully responsible for and shall indemnify the Authority and the Chief Constable for and in respect of:

- (a) any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the Supplier's employees in respect of the Services, where such recovery is not prohibited by law. The Supplier shall further indemnify the Authority and the Chief Constable against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Authority or the Chief Constable in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;
- (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Supplier's employees against the Authority or the Chief Constable arising out of or in connection with the provision of the Services.

56.9.4 The Authority may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Supplier.

56.9.5 The Supplier warrants that it is not nor will it prior to the cessation of this Contract, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

56.10 Governing law and jurisdiction

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, laws of England and Wales, and the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.