

SP-19-002

FRAMEWORK AGREEMENT

-between-

**(1) THE SCOTTISH MINISTERS: ACTING THROUGH SCOTTISH PROCUREMENT (THE
“AUTHORITY”)**

-and-

(2) Vodafone Ltd (THE “SERVICE PROVIDER”)

-relating to the supply of-

MOBILE VOICE AND DATA SERVICES

-for the benefit of-

THE SCOTTISH MINISTERS AND THE FRAMEWORK PUBLIC BODIES

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PREAMBLE:

- ONE The Authority requires the supply of Services to the Framework Public Bodies;
- TWO On 15 November 2019 the Authority's contract notice relating to the Services was published in the Official Journal of the European Union with reference number 2019/S 221-542232 ;
- THREE On 18 December 2019 the Service Provider completed its ESPD;
- FOUR On 15 November 2019 the Authority issued its ITT to potential Service Providers (including the Service Provider) in respect of the supply of Services;
- FIVE On 18 December 2019 the Service Provider submitted its Tender;
- SIX On the basis of the Tender, the Authority has selected the Service Provider to supply the Services under this Framework Agreement;
- SEVEN In accordance with the Public Contracts (Scotland) Regulations 2015, this Framework Agreement establishes Standard Terms of Supply under which Call-off Contracts may be entered into for the supply of Services;
- EIGHT This Framework Agreement also includes:
- a Specification setting out the Services that the Service Provider has undertaken to provide including Service Levels setting out particular levels of service that the Service Provider has undertaken to meet;
 - a Pricing Schedule setting out details of the pricing of the Services;
 - Award Procedures prescribing the mandatory procedures for entering into Call-off Contracts; and
 - Management Arrangements for the strategic management of the relationship between the Authority and the Service Provider.

SECTION A

1. Definitions and Interpretation

1.1. In this Framework Agreement unless the context otherwise requires the following terms have the meanings given to them below:

“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 control with, that corporate body from time to time;

“Auditor” means:

(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 Audit Scotland, HM Treasury or the Cabinet Office

(d) any party formally appointed by the Authority to carry out audit or similar review functions; and

(e) successors or assignees of any of the above;

“Authority” means the Scottish Ministers acting through Scottish Procurement.

“Authority Protected Information” means any information provided by the Authority to the Service Provider which:

- carries a protective marking such as “Official”, “Secret” or “Top Secret”; or
- is exempt information as set out in Part 2 of FOISA (disregarding for that purpose whether a provision of Part 2 does not confer absolute exemption within the meaning of section 2(2) of FOISA).

“Authority Requirements” means the operational requirements, functions and characteristics of the Framework set out in Schedule 1 (Specification and Service Levels)

“Award Procedures” means the procedures for entering into Call-off Contracts set out at Schedule 3.

“Baseline Personnel Security Standard” means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

“Call-off Contract” means any contract for the Supply of Services between a Framework Public Body and the Service Provider entered into in accordance with the Award Procedures and based on the Standard Terms of Supply.

“Commencement Date” has the meaning given in clause 4.1.

“Contracting Authority” has the meaning given in regulation 2 of the Public Contracts (Scotland) Regulations 2015;

“Complaint” means any grievance made by a Framework Public Body in respect of the Contractor (or any sub-contractor as appropriate) not fulfilling its obligations under the terms of this Agreement or Call-off Contracts.

“Control” has the meaning given in section 450 of the Corporation Tax Act 2010.

“Data Controller”, “Data Processor”, “Data Subject” and “Data Subject Access Requests” have the meanings given in the Data Protection Laws.

“Data Protection Laws” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR.

“Default” means any breach of the obligations of the Service Provider (including but not limited to material breach) or any negligent act, omission or statement of the Service Provider in connection with or in relation to this Framework Agreement.

“Deliverable” means an item, feature or service associated with the provision of the Services or a change in the provision of the Services which is required to be delivered by the Service Provider at a Milestone Date or at any other stage during the performance of this Framework.

“Environmental Information Regulations” means the Environmental Information (Scotland) Regulations 2004.

“ESPD” means the European Single Procurement Document completed by the Service Provider and sent to the Authority on 18 December 2019.

“Exit Management” means the obligations and rights of the Parties to ensure a smooth transition of the Framework from the Service Provider to the Authority or any Replacement Service Provider as set out in Clause 44 (Exit Management) and Schedule 8 (Exit Management).

“Exit Plan” means the exit management plan developed by the Service Provider and approved by the Authority in accordance with Clause 44 (Exit Management).

“Exit Management Date” means each of the following:

- (a) the date of a Termination Notice; and
- (b) if no Termination Notice has been served in relation to this Agreement except for any Partial Termination, the expiry of the later of the Initial Term and any extension of the Agreement agreed in writing.

“Financial Distress Event” means the occurrence of one or more of the following events:

- (a) the Service Provider’s or the relevant Key Sub-contractor’s credit or Dun & Bradstreet rating (as applicable) drops one or more levels below the level set out in clause 43A (*Financial Distress*);
- (b) the Service Provider or a Key Sub-contractor issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects;
- (c) there is a public investigation into improper financial accounting and reporting, suspected fraud and/or any other impropriety of the Service Provider or a Key Sub-contractor;
- (d) the Service Provider or a Key Sub-Contractor commits a material breach of covenants to its lenders;

- (e) a Key Sub-Contractor notifies the Purchaser that the Service Provider has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) the commencement of any litigation against the Service Provider or a key Sub-Contractor with respect to financial indebtedness; or
- (g) any financial indebtedness of the Service Provider or a Key Sub-contractor becoming due as a result of an event of default which (in respect of this sub-section (g) only) the Purchaser reasonably believes could materially impact on the continued performance of the Services.

“Financial Distress Event Remedial Plan” means a plan provided by the Service Provider in accordance with clause 43A (Financial Distress) to remedy the potential adverse impact of the relevant Financial Distress Event on the continued performance of this Contract.

“FOISA” means the Freedom of Information (Scotland) Act 2002.

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made.

“Framework Agreement” or **“Agreement”** means this framework agreement between the Authority and the Service Provider consisting of clauses and 11 Schedules.

“Framework Public Bodies” means the Authority the Framework Agreement will be available for use by the Scottish Ministers (including Agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish Administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, the Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994, bodies registered as social landlords under the Housing (Scotland) Act 2001, Student Loans Company Limited, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Scottish Futures Trust, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the framework agreement will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the Membership Database of the Scottish Council for Voluntary Organisations.

“GDPR” means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“**ITT**” means the Authority’s invitation to tender dated 15 November 2019.”

“**Key Sub-contractor**” means any Sub-contractor:

- a. which, in the opinion of the Authority or Framework Public Body, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or
- b. with a Sub-contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Framework or individual Call off Contract (as set out in the Pricing Schedule);

“**Law**” means

- (a) any applicable statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of section 2 of the European Communities Act 1972;
- (c) any applicable guidance, direction, determination or regulations with which the Authority and/or the Service Provider is bound to comply;
- (d) any applicable judgement of a relevant court of law which is a binding precedent in Scotland; and
- (e) any requirements of any regulatory body in each case in force at any time during the period of the Framework Agreement in Scotland.

“**Management Arrangements**” means the arrangements for the strategic management of the relationship between the Authority and the Service Provider, including arrangements for monitoring of the Service Provider’s compliance with the Specification and Service Levels, the Award Procedures and the terms of this Framework Agreement, set out in Schedule 4.

“**Party**” to this Framework Agreement means either of the Authority or the Service Provider and does not include any other party who may have the benefit of this Framework Agreement.

“**Personal Data**” has the meaning given in the Data Protection Laws.

“**Pricing Schedule**” means the details of the pricing of the Services as at the Commencement Date set out in Schedule 2.

“**Priority Support**” means the senior officer / ministers who require enhanced support, to be identified by each Framework Public Body at contract call off stage.

“**Processing**” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly.

“**Replacement Service Provider**” means any third party service provider appointed by the Authority from time to time in succession to the Service Provider

“**Request for Information**” means a request for information within the meaning of section 8 of FOISA or the Environmental Information Regulations and any attempted or apparent such request.

“**Schedule**” means a schedule annexed to this Framework Agreement.

“Services” means the services as are to be supplied by the Service Provider to the Framework Public Bodies as set out in the Specification.

“Service Levels” means the particular levels of service that the Service Provider has undertaken to meet, and identified as service levels in the Specification and Service Levels (Schedule 1).

“Service Provider” means Vodafone Ltd, Vodafone House, The Connection, Newbury, Berkshire RG14 2FN Registered Number 01471587

“Service Provider Sensitive Information” means any information provided by the Service Provider to the Authority (disregarding any protective marking or assertion of confidentiality) which:

- [is specified as Service Provider Sensitive Information in Schedule 7 and has not lost its sensitivity according to the justifications and durations set out in that Schedule; and]
- is exempt information pursuant to sections 33(1) or 36, 38 or 39 of FOISA (having regard for that purpose to the public interest there might be in disclosing such information as referred to in section 2(1)(b) of FOISA).

“Specification” means the specification of the Services that the Service Provider has undertaken to provide set out in Schedule 1.

“Standard Terms of Supply” means the standard terms and conditions for Call-off Contracts set out in Schedule 5.

“Staff” means all employees, agents, consultants and individual Service Providers of the Service Provider, and Affiliate of the Service Provider and/or of any sub-contractor;

“Sub-contract” means any contract between two or more contractors, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Framework Agreement or call off contract.

“Supervisory Authority” has the meaning given in the Data Protection Laws.

“Tender” means the tender submitted by the Service Provider to the Authority in response to the ITT dated 18 December 2019.

“Termination Notice” means a notice to terminate this Framework Agreement or part of the Framework either immediately or at a date specified in the notice.

“Transparency Information” means the Transparency Reports and the content of this Framework Agreement.

“Transparency Reports” means a report in accordance with Schedule 7 Part 1 (Transparency Reports) containing the contract information as set out in the table for that Part for publication by the Authority in the interests of transparency.

“Working Day” means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971.

“Working Hour” means an hour between 0900 hours and 1700 hours on a Working Day.

- 1.2. The interpretation and construction of this Framework Agreement is subject to the following provisions:

- 1.2.1. words importing the singular meaning include, where the context so admits, the plural and vice versa;
- 1.2.2. words importing the masculine include the feminine and neuter;
- 1.2.3. reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.4. references to any statute, enactment, order, regulation or other similar instrument are construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument or re-enacted;
- 1.2.5. references to any person include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;
- 1.2.6. the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and
- 1.2.7. headings are included in this Framework Agreement for ease of reference only and do not affect the interpretation or construction of this Framework Agreement.

2. NOT USED

3. Nature of this Agreement

- 3.1. This Agreement is a framework agreement within the meaning of regulation 2(1) of the Public Contracts (Scotland) Regulations 2015. Call-off Contracts are public contracts within the meaning of that regulation.
- 3.2. This Agreement is a single-supplier framework agreement and the Service Provider that is party to it is the Service Provider. No other Service Providers are party to the Framework Agreement.
- 3.3. This Agreement is a multi-user framework agreement and the public bodies that are party to it are the Framework Public Bodies. No other public bodies are party to the Framework Agreement.
- 3.4. Save to the extent specifically provided for in this Agreement, the Service Provider acknowledges that it is not the exclusive supplier of the Services to the Framework Public Bodies and as such no guarantee of work or volume of work has been granted by any Framework Public Body.
- 3.5. The Service Provider acknowledges that the Framework Public Bodies are separate legal persons and as such the Authority has no liability in relation to the performance or non-performance of other Framework Public Bodies' obligations under this Framework Agreement or any Call-off Contracts.

4. Period

- 4.1. The period of this Framework Agreement is from and including 17 March 2020 (the “Commencement Date”) to and including 16 March 2022 unless it is terminated earlier or extended under Clause 4.2.
- 4.2. The Authority may, by giving notice to the Service Provider, extend the period of the Framework Agreement to a date falling no later than three years from the Commencement Date. Subject to that constraint, the Authority may extend the period of the Framework Agreement on more than one occasion.

4.3. The period of Call-off Contracts is addressed in the Standard Terms of Supply. The period of a Call-off Contract may continue notwithstanding that the Framework Agreement has expired or terminated.

5. Break

5.1 The Authority may terminate the Framework Agreement at any time by giving not less than 3 months' notice to the Service Provider.

6. Specification and Service Levels and Cyber Security Requirements

6.1 The Specification sets out the Services that the Service Provider has undertaken to provide. The Specification includes Service Levels setting out particular levels of service that the Service Provider has undertaken to meet.

6.2 The Service Provider shall comply with Schedule 11 (Cyber Security Requirements). '

7. Price

7.1. The Pricing Schedule sets out details of the pricing of the Services as at the Commencement Date.

7.2. The prices in the Pricing Schedule are not to be increased for the period of the Framework Agreement.

7.3. Accordingly, the Service Provider may not unilaterally increase the prices in the Pricing Schedule. But nothing in this Framework Agreement prevents the Service Provider from improving on the prices in the Pricing Schedule for the purposes of a Call-off Contract.

8. Award Procedures

8.1. The Award Procedures may be invoked by any Framework Public Body and Call-off Contracts may be entered into at any time during the period of the Framework Agreement.

8.2. But the Award Procedures may not be invoked and Call-off Contracts may not be entered into with the Service Provider if:

8.2.1. the period of the Framework Agreement has expired;

8.2.2. the Framework Agreement has been terminated; or

8.2.3. the Service Provider's appointment to provide Services to the Framework Public Bodies has been suspended in accordance with clause 9.2 (Management Arrangements).

8.3. The Framework Public Bodies and the Service Provider must comply with the Award Procedures and must establish each Call-off Contract without substantial amendment to the Standard Terms of Supply.

8.4. The Service Provider must maintain the capacity to enter into and perform Call-off Contracts throughout the period of the Framework Agreement.

9. Management Arrangements

9.1. The Management Arrangements set out the arrangements for the strategic management of the relationship between the Authority and the Service Provider, including arrangements for monitoring of the Service Provider's compliance with the Specification, the Service Levels, the Award Procedures and the terms of this Framework Agreement.

9.2. The Authority may by notice to the Service Provider suspend the Service Provider's appointment to provide Services to the Framework Public Bodies for a notified period of time:

9.2.1. if the Authority becomes entitled to terminate this Framework Agreement under clause 42 (Termination Rights) or 43 (Termination on Insolvency or Change of Control); or

9.2.2. in any other circumstance provided for in the Management Arrangements.

9.3. Suspension under clause 9.2 shall terminate upon cessation of all of any circumstances referred to in subclauses 9.2.1 and 9.2.2.

9.4. The Service Provider must continue to perform existing Call-off Contracts during any period of suspension under clause 9.2.

10. Official Secrets Acts

10.1 The Service Provider undertakes to abide and procure that the Service Provider's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.

SECTION B

11. Service Provider's Status

11.1 At all times during the term of this Framework Agreement the Service Provider is an independent Service Provider and nothing in this Framework Agreement establishes a contract of employment, a relationship of agency or partnership or a joint venture between the Parties. Accordingly, neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Framework Agreement.

12. Notices

12.1. Any notice or other communication which is to be given by a Party to the other under this Framework Agreement must be:

12.1.1. given in writing;

12.1.2. addressed in accordance with clause 12.3; and

12.1.3. sent by letter (delivered by hand, first class post or by recorded delivery or special delivery), or e-mail.

12.2. Provided the relevant communication is not returned or rejected as undelivered, the notice or communication is deemed to have been given:

12.2.1. 2 Working Days after the day on which the letter was posted; or

12.2.2. 4 Working Hours, in the case of e-mail.

12.3. For the purposes of this clause, the address of each Party is:

12.3.1. For the Authority:
Scottish Procurement and Property Directorate
Scottish Government
7th Floor
5 Atlantic Quay
150 Broomielaw
Glasgow G2 8LU

For the attention of: David Box
Tel: 0141 242 0345
E-mail: david.box@gov.scot

- 12.3.2. For the Service Provider:
Vodafone Ltd
Vodafone House
The Connection
Newbury
Berkshire RG14 2FN

For the attention of: Stuart Holden
Tel: 07775 671027
E-mail: stuart.holden2@vodafone.com

- 12.4. Either Party may change its address details by serving a notice in accordance with this clause.

13. Recovery of Sums Due

- 13.1 Wherever under this Framework Agreement any sum of money is recoverable from or payable by the Service Provider to the Authority, the Authority may deduct that sum from any sum due to the Service Provider whether under a Call-off Contract or otherwise.

14. Data Protection

- 14.1. The Service Provider will, in conjunction with the Authority and in its own right and in respect of the Services, ensure it will be compliant with the Data Protection Laws.
- 14.2. Both Parties agree to negotiate in good faith any such amendments to this Framework Agreement that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this clause 14 are without prejudice to any obligations and duties imposed directly on the Parties under Data Protection Laws and the Parties agree to comply with those obligations and duties.
- 14.3. The Parties acknowledge that the Service Provider may Process Personal Data in delivery of Services under a Call-off Contract under this Framework Agreement. For the purposes of any such Processing, Parties agree that the Service Provider acts as the Data Processor and the Authority acts as the Data Controller.
- 14.4. The Service Provider will provide the Authority with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.
- 14.5. To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Authority publishes an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Service Provider should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of payment) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

15. Transparency and Freedom of Information

- 15.1 The Service Provider acknowledges that the Authority is subject to the requirements of FOISA and the Environmental Information Regulations. The Service Provider shall:

- (a) provide all necessary assistance and cooperation as the Authority may reasonably request to enable the Authority to comply with its obligations under FOISA and Environmental Information Regulations;
 - (b) transfer to the Authority all Requests for Information relating to this Agreement that the Service Provider receives as soon as reasonably practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Authority with a copy of all information held on behalf of the Authority which is requested in a Request For Information and which is in the Service Provider's possession or control. The information must be provided within 5 Working Days (or such other period as the Authority may reasonably specify) in the form that the Authority requires.
 - (d) not respond directly to a Request For Information addressed to the Authority unless authorised in writing to do so by the Authority.
- 15.2 If the Request for Information appears to be directed to information held by the Authority, the Service Provider must promptly inform the applicant in writing that the Request for Information can be directed to the Authority.
- 15.3 If the Authority receives a Request for Information concerning the Framework Agreement, the Authority is responsible for determining at its absolute discretion whether the information requested is to be disclosed to the applicant or whether the information requested is exempt from disclosure in accordance with FOISA or the Environmental Information Regulations.
- 15.4 The Service Provider acknowledges that the Authority may, acting in accordance with the Authority's Code of Practice on the Discharge of Functions of Public Authorities issued under section 60(5) of FOISA (as may be issued and revised from time to time), be obliged under FOISA or the Environmental Information Regulations to disclose information requested concerning the Service Provider or the Framework Agreement:
- 15.4.1 in certain circumstances without consulting the Service Provider, or
 - 15.4.2 following consultation with the Service Provider and having taken its views into account.
- 15.5 Where 15.4.1 applies the Authority must take reasonable steps, if reasonably practicable, to give the Service Provider advance notice of the fact of disclosure or, failing that, draw the fact of disclosure to the attention of the Service Provider as soon as reasonably practicable after such disclosure to the extent that it is permissible and reasonably practical for it to do.
- 15.6 Where a Request for Information concerns Service Provider Sensitive Information specified in Schedule 7 (having regard to the justifications and durations set out there), the Authority must take reasonable steps, where practicable, to consult with the Service Provider before disclosing it pursuant to a Request for Information.
- 15.7 The Service Provider acknowledges that Transparency Reports and the content of this Agreement including any Amendments, agreed from time to time, (together the "Transparency Information") are not Service Provider Sensitive Information. However, if the Authority believes acting reasonably that publication of any element of the Transparency Information should be treated as Service Provider Sensitive Information the Authority may, in its discretion, exclude such information from publication.
- 15.8 Notwithstanding any other provision of this Agreement, the Service Provider hereby gives consent for the Authority to publish to the general public, the Transparency Information in its entirety. The Authority shall, prior to publication, consult with the Service Provider on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

- 15.9 The Service Provider shall assist and co-operate with the Authority to enable the Authority to publish the Transparency Information including the preparation of Transparency Reports.
- 15.10 The Authority shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Agreement is being performed, having regard to the context of the wider commercial relationship with the Service Provider.
- 15.11 The Service Provider agrees that any further Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority upon request, unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of FOISA. The Authority may disclose such information under FOISA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information, (subject to clause 17.3.3) publish such Information. The Service Provider shall provide to the Authority within 5 working days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.

16. Authority Protected Information

- 16.1. The Service Provider must:
- 16.1.1. treat all Authority Protected Information as confidential and safeguard it accordingly, implementing appropriate technical and organisational measures to protect Authority Protected Information against disclosure;
 - 16.1.2. only use the Authority Protected Information for the purposes of performing its obligations under the Framework Agreement;
 - 16.1.3. only disclose the Authority Protected Information to such Service Provider Representatives that are directly involved in the performance of the Framework Agreement and need to know the information; and
 - 16.1.4. not disclose any Authority Protected Information without the prior written consent of the Authority.
- 16.2. The Service Provider must immediately notify the Authority of any breach of security concerning the Authority Protected Information. The Service Provider must fully co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any such breach of security.
- 16.3. Clause 16.1 does not apply to the extent that:
- 16.3.1. disclosure is required by law or by order of any competent court or tribunal;
 - 16.3.2. information is in the possession of the Service Provider without restriction as to its disclosure prior to its disclosure by the Authority;
 - 16.3.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 16.3.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement; or
 - 16.3.5. information is independently developed without access to the Authority Protected Information.

- 16.4. Breach of this clause or the Official Secrets Acts 1911 to 1989 by the Service Provider is a material breach for the purposes of clause 42 (Termination Rights).

17. Service Provider Sensitive Information

- 17.1. The Authority must:

- 17.1.1. treat all Service Provider Sensitive Information as confidential and safeguard it accordingly; and
- 17.1.2. not disclose any Service Provider Sensitive Information to any other person without the prior written consent of the Service Provider.

- 17.2. Clause 17.1 does not apply to the extent that:

- 17.2.1. disclosure is required by law or by order of any competent court or tribunal;
- 17.2.2. information is in the possession of the Authority without restriction as to its disclosure prior to its disclosure by the Service Provider;
- 17.2.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
- 17.2.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement; or
- 17.2.5. information is independently developed without access to the Service Provider Sensitive Information.

- 17.3. Nothing in this Framework Agreement prevents the Authority from disclosing any Service Provider Sensitive Information or any other information concerning the Service Provider or the Framework Agreement:

- 17.3.1. pursuant to a Request for Information concerning the information (provided that any such disclosure shall be made in accordance with clause 15) (Transparency and Freedom of Information);
- 17.3.2. in accordance with the Authority's publication scheme (within the meaning of section 23 of FOISA) as reviewed from time to time;
- 17.3.3. in accordance with the requirements of Part 3 of the Public Services Reform (Scotland) Act 2010;
- 17.3.4. in accordance with any future policies of the Authority concerning the routine disclosure of government information in the interests of transparency;
- 17.3.5. to any consultant, Service Provider or other person engaged by the Authority, for example to conduct a gateway review;
- 17.3.6. in response to a Parliamentary Question from a Member of the Scottish Parliament, a Member of the United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents, when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Authority shall if the Authority sees fit disclose such information but is unable to impose any restrictions upon the information that the Authority provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament;

- 17.3.7. in response to any inquiry of the European Commission concerning the Framework Agreement; or
 - 17.3.8. for the purpose of any examination by any auditors of the Authority (including Audit Scotland, the Auditor General for Scotland and the Scottish Parliament) of the economy, efficiency and effectiveness with which the Authority has used its resources.
- 17.4. The Service Provider consents to the publication of the Framework Agreement by the Authority, subject to such redactions as the Authority may decide to make. The Authority may consult with the Service Provider to inform its decisions concerning redaction (for example to exclude any Service Provider Sensitive Information) but any decisions taken by the Authority are final and conclusive.

18. Audit and Records Management

- 18.1 In this Clause 18, the following terms have the following meanings:-

The 'Act' means the Public Records (Scotland) Act 2011;

'Records Management Plan' means the plan prepared by the Authority and approved by the Keeper of the Records of Scotland under section 1 of the Act;

- 18.2 The Service Provider must retain and maintain until 5 years after the end of the Framework Agreement period full and accurate records of the Framework Agreement including the Orders placed, the Services provided and payments made and reimbursed under it.
- 18.3 The Service Provider must on request, and without any charge to the Authority, afford the Authority, or the Authority's representatives, such access to those records as may reasonably be requested by the Authority in connection with the Framework Agreement.
- 18.4 The Service Provider shall, for the duration of the Framework Agreement, provide the Authority with all assistance requested by the Authority acting reasonably to assist the Authority in complying with its obligations under the Act and with the Authority's Records Management Plan where such compliance is in respect of records created or to be created by the Service Provider on behalf of the Authority in terms of this Framework Agreement. This assistance will be at no cost to the Authority.
- 18.5 At the end of the Framework Agreement, the Service Provider shall transfer the records in question to the Authority, such transfer to include full ownership of the records. The transfer shall be at no cost to the Authority. The Service Provider shall ensure that all relevant information reasonably required to locate individual items within the records, including metadata and database schema, are also offered to the Authority on the same terms.
- 18.6 If the Service Provider shall become bankrupt (whether voluntarily or compulsorily), unable to pay its debts, insolvent or make arrangements with its creditors or if any resolution is adopted for the winding up of any party, or if a receiver, administrator or administrative receiver is appointed over the whole or any part of its assets or if either party goes into liquidation (whether voluntarily or compulsorily), otherwise than for the purposes of amalgamation or reconstruction or any form of execution levied upon its assets, then immediately upon the occurrence of any of these events, the records which would, in terms of clause 18.5 fall to be offered to the Authority shall be deemed to be held on trust by the Service Provider on behalf of the Authority. The Service Provider shall thereafter, if and when so required by the Authority, transfer the records in question to the Authority, such transfer to be on the same terms as would apply to a transfer made in terms of clause 18.5.

19. Publicity

- 19.1 The Service Provider must not make any press announcement or otherwise publicise the Framework Agreement in any way, except with the written consent of the Authority.

SECTION C

20. Key Individuals

- 20.1 The Service Provider acknowledges that the Key Individuals are essential to the proper provision of the Services to the Authority.
- 20.2 The Key Individuals must not be released from providing the Services without the approval of the Authority (such approval not to be unreasonably withheld or delayed), except by reason of long-term sickness, maternity, paternity, adoption or parental leave, termination of employment or equivalent extenuating circumstances. Where such extenuating circumstances arise or are foreseeable, the Service Provider must provide reasonable notice of that fact to the Authority.
- 20.3 The Service Provider may propose a replacement to a Key Individual (and must do so when a Key Individual is to be released from providing the Services), in which case:
- 20.3.1 appropriate arrangements must be made to minimise any adverse impact on the Framework Agreement which could be caused by the change in Key Individuals (including, wherever possible, a reasonable transfer period of sufficient duration to allow for the transfer of know-how and skills); and
 - 20.3.2 the replacement must be of at least equal status and of equivalent qualifications, experience, training and skills to the Key Individual being replaced and must be fully competent to carry out the responsibilities of that person in relation to the Services.
- 20.4 Any proposed replacement to a Key Individual is subject to the approval of the Authority. Subject to the Service Provider's compliance with this clause, the Authority must not unreasonably withhold such approval.

21. Offers of Employment

- 21.1 For the duration of the Framework Agreement and for a period of 12 months thereafter the Service Provider must not employ or offer employment to any of the Authority's employees who have been associated with the Framework Agreement and/or the contract management of the Framework Agreement without the Authority's prior approval.
- 21.2 This clause does not prevent the Service Provider from employing or offering employment to any person who has applied for employment in response to an advertisement placed in the normal course of business and not placed with the objective of soliciting the Authority's employees.

22. Staff transfer at commencement

- 22.1 The Parties agree that the commencement of the provision of the Services by the Service Provider does not involve a Relevant Transfer.

23. Information about Service Provider Employees

- 23.1 The Authority may by notice require the Service Provider to disclose such information as the Authority may require relating to those of the Service Provider's employees carrying out activities under or connected with the Framework Agreement.
- 23.2 The Service Provider must disclose by notice all such information as is required by the Authority under clause 23.1, within such reasonable period specified by the Authority. The Service Provider acknowledges that the Data Protection Laws do not prevent the disclosure of anonymised data that is not personal data within the meaning of that Act.

23.3 The Service Provider consents to the disclosure by the Authority of all information provided by the Service Provider under this clause to other Service Providers that the Authority may invite to tender or appoint for services to be provided in substitution for the Services.

24 Staff transfer on expiry or termination

24.1 The Parties agree that the ceasing of the provision of the Services by the Service Provider does not involve a Relevant Transfer.

25. Security

25.1 The Service Provider must comply with the Authority's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.

25.2 The Service Provider must notify the Authority of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.

SECTION D

26. Parties' pre-existing Intellectual Property Rights

26.1 Except as expressly provided for in the Framework Agreement, neither Party acquires any interest in or license to use the other Party's Intellectual Property Rights as they subsist at the Commencement Date or as developed independently of the Framework Agreement.

27. Specially Created Intellectual Property Rights

27.1 All Intellectual Property Rights and any reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material prepared by or for the Service Provider specifically on behalf of the Authority for use, or intended use, in relation to the performance by the Service Provider of its obligations under the Framework Agreement belong to the Authority.

27.2 The Service Provider assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the materials referred to in clause 27.1. This assignation takes effect on the Commencement Date or as an assignation of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Service Provider. The Service Provider must execute all documentation necessary to effect this assignation.

28. Licences of Intellectual Property Rights

28.1 The Service Provider grants to the Authority a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to enjoy the benefit of the Services.

28.2 The Service Provider grants to the Authority a royalty-free, irrevocable and non-exclusive licence to use any Intellectual Property Rights in the Deliverables for the duration of the Framework and any subsequent call off contracts.

28.3 The Service Provider must ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Framework Agreement grants to the Authority a royalty-free, irrevocable and non-exclusive licence or, if itself a licensee of those rights, grants to the Authority an authorised and equivalently wide sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights. Such licence or

sub-licence must be non-exclusive, royalty free and irrevocable for the duration of the Framework and any subsequent call off contracts.

29. Claims relating to Intellectual Property Rights

- 29.1 The Service Provider must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Framework Agreement and must ensure that the provision of the Services and the use or possession of the Deliverables does not infringe such Intellectual Property Rights.
- 29.2 The Service Provider must promptly notify the Authority if any claim or demand is made or action brought against the Service Provider for infringement or alleged infringement of any Intellectual Property Right which may affect the use or possession of the Deliverables or which may affect the provision of the Services.
- 29.3 Where a claim to which this clause applies is made, the Service Provider must, at its expense, use its best endeavours to:
- 29.3.1 modify the Services or Deliverables or substitute alternative Services or Deliverables (in any case without reducing performance or functionality) so as to avoid the infringement or alleged infringement of the Intellectual Property Rights; or
 - 29.3.2 procure the grant of a licence or licences from the pursuer, claimant or complainer, on terms acceptable to the Authority, so as to avoid the infringement or alleged infringement of the Intellectual Property Rights of the pursuer, claimant or complainer.
- 29.4 The Service Provider must not without the consent of the Authority make any admissions which may be prejudicial to the defence or settlement of any claim to which this clause applies.

30. Assignment and Change of Control

- 30.1 The Service Provider may not assign its interest in the Framework Agreement without the prior written consent of the Authority.
- 30.2 The Service Provider must notify the Authority:
- 30.2.1 whenever it proposes to undergo a change of Control, or a change of control is likely to occur;
 - 30.2.2 immediately following a change of Control that has occurred; and
 - 30.2.3 where it proposes to make any change to its sub-contractor named by the Service Provider in its tender.
- 30.3 Subject to clause 30.5, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part thereof to:
- (a) any Contracting Authority; or
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
 - (c) any private sector body which substantially performs the functions of the Authority,
- provided that any such assignment, novation or other disposal shall not increase the burden of the Service Provider's obligations under the Framework Agreement.
- 30.4 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause 30.5, affect the validity of the Framework Agreement. In such

circumstances, the Framework Agreement shall bind and inure to the benefit of any successor body to the Authority.

- 30.5 If the rights and obligations under the Framework Agreement are assigned, novated or otherwise disposed of pursuant to clause 30.3 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the “**Transferee**”):
- (a) the rights of termination of the Authority in clauses 42 (Termination Rights) and 43 (Termination on Insolvency and Change of Control) shall be available to the Service Provider in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and
 - (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part thereof with the prior consent in writing of the Service Provider.
- 30.6 The Authority may disclose to any Transferee any Confidential Information of the Service Provider which relates to the performance of the Service Provider’s obligations under the Framework Agreement. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Service Provider’s obligations under the Framework Agreement and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

31. Sub-Contracting

- 31.1 The Authority approves the appointment of the sub-contractors specified in Schedule 10 (Approved Sub-contractors) in respect of the obligations specified in that Schedule.
- 31.2 The Service Provider may not sub-contract its obligations under the Framework Agreement to other sub-contractors without the prior written consent of the Authority. Sub-contracting of any part of the Framework Agreement shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Framework Agreement. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 31.3 Where the Service Provider enters into a sub-contract the Service Provider must ensure that a provision is included which:
- 31.3.1 requires payment to be made of all sums due by the Service Provider to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Authority has made payment to the Service Provider in respect of Services and the sub-contractor’s invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Service Provider is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Service Provider, payment must be made to the sub-contractor without deduction;
 - 31.3.2 notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Authority and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Authority;
 - 31.3.3 requires that all contracts with subcontractors and suppliers which the subcontractor intends to procure, and which the subcontractor has not before the date of this Framework Agreement, already planned to award to a particular supplier are advertised through the Public Contracts Scotland procurement portal

(www.publiccontractsscotland.gov.uk) and awarded following a fair, open, transparent and competitive process proportionate to the nature and value of the contract; and

31.3.4 is in the same terms as that set out in this clause 31.3 (including for the avoidance of doubt this clause 31.4) subject only to modification to refer to the correct designation of the equivalent party as the Service Provider and sub-contractor as the case may be.

31.4 The Service Provider shall include in every sub-contract:

31.4.1 a right for the Service Provider to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract, contract award despite the existence of exclusion grounds or a serious infringement of EU legal obligations) specified in clause 42.4 occur; and

31.4.2 a requirement that the sub-contractor includes a provision having the same effect as 31.4.1 in any sub-contract which it awards.

In this Clause 31.4, 'sub-contract' means any contract between two or more contractors, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Framework Agreement.

31.5 Where requested by the Authority, copies of any sub-contract must be sent by the Service Provider to the Authority as soon as reasonably practicable.

31.6 Where the Service Provider proposes to enter into a sub-contract which has a value in excess of £119,000 except where the Supplier already has established supply chain arrangements that it intends to use to deliver the requirements it must:

31.6.1 advertise its intention to do so in at least one trade journal, [at least one newspaper circulating in Scotland and the Public Contracts Scotland Portal; and

31.6.2 follow a procedure leading to the selection of the sub-contractor which ensures reasonable competition following principles of equal treatment, non-discrimination and transparency and which ensures that such procedure is accessible by small and medium enterprises.

32. Amendment

32.1 The Framework Agreement may be amended only by the written agreement of both Parties. Accordingly, the parties may not unilaterally amend the Framework Agreement

SECTION E

33. Warranties and Representations

33.1 The Service Provider warrants and represents that:

33.1.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Framework Agreement and that the Framework Agreement is executed by a duly authorised representative of the Service Provider;

33.1.2 in entering the Framework Agreement it has not committed any offence under the Bribery Act 2010 or of fraud or uttering at common law or any other kind referred to in the Public Contracts (Scotland) Regulations 2015;

- 33.1.3 it has not committed any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or committed any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities;
- 33.1.4 as at the Commencement Date, all information contained in the ESPD and Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Framework Agreement;
- 33.1.5 no claim is being asserted and no litigation, alternative dispute resolution procedure or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Framework Agreement;
- 33.1.6 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 the Framework Agreement;
- 33.1.7 no 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 Service Provider 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 Service Provider's assets or revenue; and
- 33.1.8 as at the Commencement Date, all insurances that must be effected under the Standard Terms of Supply have been effected.

34. Indemnity

- 34.1 Without prejudice to any rights or remedies of the Authority, the Service Provider will indemnify the Authority against any and all claims, proceedings, actions, damages, costs, expenses and any other loss and liabilities which may arise out of, or in consequence of, any Default of the Service Provider, its agents and employees.
- 34.2 Where clause 34.3 applies, a claim under clause 34.1 shall not be raised by the Authority unless it has given notice to the Service Provider specifying the Default and requesting it to be remedied within such reasonable period (the determination of which shall be in the absolute discretion of the Authority) as may be specified by the Authority.
- 34.3 This clause applies where the Default giving rise to a potential claim under clause 34.1 is capable of remedy by the Service Provider resulting in no adverse impact on delivery of the Service and no claim, proceedings, actions, damages, costs, expenses or any other loss and liabilities being suffered by the Authority.

35. Limitation of Liability

- 35.1 Neither Party is liable to the other Party under the Framework Agreement for any:
 - 35.1.1 loss of profits, business, revenue or goodwill; or
 - 35.1.2 indirect or consequential loss or damage.
- 35.2 But clause 35.1 does not exclude any liability of the Service Provider for additional operational, administrative costs or expenses or wasted expenditure resulting from the Default of the Service Provider.
- 35.3 The liability of either Party under the Framework Agreement for Defaults is limited to £2,500,000 per instance, or any greater /other sum as may be agreed with the Framework Public Body in the Call off Contract terms and conditions.

35.4 But neither Party excludes or limits liability to the other Party for:

35.4.1 death or personal injury caused by its negligence;

35.4.2 fraudulent misrepresentation;

36. Insurance

36.1 The Service Provider must effect and maintain with a reputable insurance company:

36.1 public liability insurance in the sum of not less than £1,000,000 per occurrence, or such greater/other sum as may be agreed with the Framework Public Body; and;

36.2 professional indemnity insurance in the sum of not less than £3,000,000 per claim and in the annual aggregate, or such greater/other sum as may be agreed with the Framework Public Body; and;

36.3 employer's liability insurance in accordance with any legal obligation for the time being in force.

36.2 Such insurance must be maintained for the duration of the Framework Agreement and for a minimum of 5 years following the expiry or termination of the Framework Agreement.

36.3 The Service Provider must give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

37. Dispute Resolution

37.1 The Parties must attempt in good faith to resolve any dispute or difference between them arising out of or in connection with the Framework Agreement, including any question regarding its existence, validity or termination, in accordance with the Management Arrangements.

37.2 Any dispute or difference arising out of or in connection with this Framework Agreement, including any question regarding its existence, validity or termination, which cannot be resolved in accordance with the Management Arrangements, shall be determined by the appointment of a single arbitrator to be agreed between the Parties, or failing agreement within fourteen days after either Party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either Party. The seat of arbitration shall be Scotland. The language used in the arbitral proceedings shall be English.

37.3 Any arbitration under clause 39.2 is subject to the Arbitration (Scotland) Act 2010.

38. Severability

38.1 If any provision of the Framework Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision is severed and the remainder of the provisions of the Framework Agreement continue in full force and effect as if the Framework Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

39. Waiver and Cumulative Remedies

39.1 Any failure of either Party to insist upon strict performance of any provision of the Framework Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy does not constitute a waiver of that right or remedy and does not cause a diminution of the obligations established by the Framework Agreement.

39.2 Accordingly, no waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 12 (notices).

39.3 The rights and remedies provided by this Framework Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

40. Force Majeure

40.1 Neither Party is liable to the other Party for any delay in performing, or other failure to perform, its obligations under the Framework Agreement to the extent that such delay or failure is a result of Force Majeure. Nonetheless, each Party must use all reasonable endeavours to continue to perform its obligations under the Framework Agreement for the duration of such Force Majeure. However, if Force Majeure prevents either Party from performing its material obligations under the Framework Agreement for a period in excess of 30 days, either Party may terminate the Framework Agreement with immediate effect by notice.

40.2 Any delay or other failure by the Service Provider in performing its obligations under the Framework Agreement which results from any failure or delay by a Service Provider Representative is only to be regarded as due to Force Majeure if that Service Provider Representative is itself impeded by Force Majeure from complying with an obligation to the Service Provider.

40.3 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any delay or failure on its part as described in clause 40.1, it must immediately notify the other Party of the Force Majeure and the estimated period for which the failure or delay is to continue.

40.4 The only events that afford relief from liability for failure or delay under the Framework Agreement are Force Majeure events.

41. Disruption

41.1 The Service Provider shall take reasonable care to ensure that in the performance of its obligations under the Framework Agreement it does not disrupt the operations of the Authority, its employees or any other Service Provider employed by the Authority.

41.2 The Service Provider shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Framework Agreement.

41.3 In the event of industrial action by the Staff, the Service Provider shall seek Approval to its proposals to continue to perform its obligations under the Framework Agreement.

41.4 If the Service Provider's proposals referred to in clause 41.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Authority may by notice terminate the Framework Agreement with immediate effect.

42. Termination Rights

42.1 The Authority may terminate the Framework Agreement by notice to the Service Provider with immediate effect if the Service Provider commits a Default and if:

42.1.1 the Service Provider has not remedied the Default to the satisfaction of the Authority within 20 Working Days, or such other reasonable period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;

42.1.2 the Default is not in the reasonable opinion of the Authority, capable of remedy; or

42.1.3 the Default is a material breach of the Framework Agreement.

- 42.2 The Authority may also terminate Framework Agreement:
- 42.2.1 in accordance with any provision of the Schedules;
 - 42.2.2 in accordance with any provisions of the Standard Terms of Supply relating to the following activities:
 - 42.2.3 entering, attending or occupying the Authority's premises;
 - 42.2.4 making use of the Authority's property or information technology systems, or giving the Authority the use of the Service Provider's property or information technology systems;
 - 42.2.5 having dealings with the Authority's employees, Service Providers, suppliers or Service Providers;
 - 42.2.6 soliciting the Authority's employees;
 - 42.2.7 making representations or giving professional advice to the Authority;
 - 42.2.8 generating information for or giving information to the Authority;
 - 42.2.9 receiving information from or holding information on behalf of the Authority; and
 - 42.2.10 carrying out publicity or marketing activities;
 - 42.2.11 where a Call-off Contract with the Service Provider under this Framework Agreement has been terminated prior to the termination date of that Call-off Contract.
 - 42.2.12 where, at any time before the term of the Framework Agreement, the Service Provider or any person falling within the description set out in paragraph (2) of regulation 58 of The Public Contracts (Scotland) Regulations 2015 commits or is convicted of an offence referred to in paragraph (1) of that regulation.
- 42.3 The Authority may terminate the Framework Agreement if a Call-off Contract is terminated because of a Default by the Service Provider.
- 42.4 The Authority may terminate the Contract in the event that:
- (a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of The Public Contracts (Scotland) Regulations 2015;
 - (b) the Service Provider has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of The Public Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure; or
 - (c) the Contract should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

In this Condition, 'the Treaties' has the meaning given in the European Communities Act 1972.

42.5 The Authority may also terminate the Framework Agreement in the event of a failure by the Service Provider to comply in the performance of its obligations under the Framework Agreement with legal obligations in the fields of environmental, social or employment law.

43. Termination on Insolvency and Change of Control

43.1 The Authority may terminate the Framework Agreement with immediate effect by notice where in respect of the Service Provider:

43.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignation for the benefit of, its creditors;

43.1.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);

43.1.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;

43.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;

43.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;

43.1.6 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

43.1.7 being a "small company" within the meaning of section 382 of the Companies Act 2006, a moratorium comes into force pursuant to schedule A1 to the Insolvency Act 1986;

43.1.8 a debt relief order is entered into; or

43.1.9 any event similar to those listed above occurs under the law of any other jurisdiction.

43.2 The Authority may terminate the Framework Agreement by notice with immediate effect within 6 months of:

43.2.1 being notified that a change of Control has occurred in accordance with clause 30 (Assignation and Change of Control); or

43.2.2 where no such notification has been given, the date that the Authority becomes aware of the change of control.

43.3 But the Authority may not terminate the Framework Agreement under clause 43.2 where approval of the change of control has been granted by notice by the Authority.

43A. FINANCIAL DISTRESS

43A.1 During the Term, the Service Provider shall regularly monitor its own and each of its Key Sub-contractors' credit ratings or (where used as proxies for credit ratings) Dun & Bradstreet rating, which at the Commencement Date are as follows:

ORGANISATION	AGENCY	RATING
Vodafone Ltd	Dun & Bradstreet	REDACTED
Orbis Protect Ltd	Dun & Bradstreet	REDACTED

43A.2. During the Term, the Service Provider shall not enter into a Key Sub-contract, or extend the duration of a Key Sub-contract if, at the time the Key Sub-contract is entered into or extended, the relevant Key Sub-contractor has:

43A.2.1 a credit rating that is lower than S&P “investment grade (BBB)” (or the equivalent credit rating level for another Rating Agency); or

43A.2.2 a Risk Indicator rating of more than 2 (low risk) with Dun & Bradstreet.

43A.3 The Service Provider shall promptly notify (or shall procure that its auditors promptly notify) the Purchaser in writing following the occurrence of a Financial Distress Event (and in any event ensure that such notification is made within ten (10) Working Days of the date on which the Service Provider first becomes aware of the Financial Distress Event).

43A.4. If the Purchaser reasonably believes that the Financial Distress Event could adversely impact the performance of this Contract, at the request of the Purchaser the Service Provider shall:

43A.4.1 (and shall procure that the relevant Key Sub-contractors shall) meet with the Purchaser as soon as practicable to review the effect of the Financial Distress Event on the continued performance of this Contract;

43A.4.2 as soon as practicable and in any event within ten (10) Working Days (taking into account any discussions and any representations made pursuant to clause 43A.4.1 (Financial Distress), provide a draft Financial Distress Event Remedial Plan for approval by the Purchaser explaining how the Service Provider and/or relevant Key Sub-contractor will remedy the potential adverse impact of the Financial Distress Event on the continued performance of this Contract; and

43A.4.3 provide such financial information as the Purchaser may reasonably require to support clause 43A.4.2 (Financial Distress).

43A.5 The Service Provider shall incorporate any reasonable comments provided by the Purchaser on the draft Financial Distress Event Remedial Plan and provide such number of revised drafts as may reasonably be required until the Purchaser has approved the Financial Distress Event Remedial Plan (which approval shall not be unreasonably withheld or delayed).

43A.6 Following approval of any Financial Distress Event Remedial Plan pursuant to clause 43A.5 the Service Provider shall implement the plan in accordance with its terms and review the plan on a regular basis and assess whether it remains adequate and up to date so as to ensure the continued performance of this Contract.

44. Exit Management

44.1 The Service Provider shall perform its relevant Exit Management obligations as part of the Framework whether applicable on either the expiry or early termination of this Agreement.

44.2 The Service Provider agrees that if it breaches (or attempts or threatens to breach) its obligation to provide Exit Management, the Authority and their respective customers and stakeholders shall be irreparably harmed. In such circumstance, the Service Provider agrees that the Authority may proceed directly to court notwithstanding anything to the contrary in the dispute resolution procedure outlined in Clause 37 (Dispute Resolution). If a court of competent jurisdiction finds that the Service Provider has breached (or attempted or threatened to breach) any such obligation, the Service Provider agrees that without any additional findings of irreparable injury, or other conditions to interdict, the Service Provider shall not oppose the entry of an appropriate order compelling performance by the Service Provider and restraining the Service Provider from any further breaches or attempted or threatened breaches of its obligations in relation to Exit Management.

44.3 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Authority within three (3) months after the Commencement Date and shall include or address the matters

specified in Clause 44.3. The Authority shall provide to the Service Provider the Authority's comments on the plan within one (1) month of the Authority's receipt of the plan. The Service Provider shall take into account the comments and suggestions of the Authority and shall issue the final version of the Exit Plan to the Authority within ten (10) Working Days of receipt of the Authority's comments.

44.4 The Service Provider shall throughout the period of the Agreement review, maintain and continuously update the Exit Plan which shall include:

44.4.1 the activities required to enable the Authority to re-tender the Authority Requirements and/or the provision of the Services;

44.4.2 the activities necessary to support any Replacement Service Provider or the Authority in carrying out any necessary due diligence relating to all or part of the Services;

44.4.3 details of the Exit Management to be provided by the Service Provider prior to the Exit Management Date;

44.4.4 support for the Replacement Service Provider or the Authority during their preparation of any relevant plan for the transition of the System to the Replacement Service Provider or Authority, including prior to and during such transition period;

44.4.5 the maintenance of a 'business as usual' environment for the Authority during the period when Exit Management obligations are applicable; and

44.4.6 all other necessary activities to support the preparation for, and execution of, a smooth and orderly Exit Management and transfer of all or part of the Services to either a Replacement Service Provider or the Authority.

44.4.7 No amendment of the Exit Plan shall be made without prior written consent of the Authority.

45. Compliance with the Law and Changes in the Law

45.1 The Service Provider shall, in complying with all obligations incumbent upon it in terms of the Framework Agreement or any other contract with the Authority, comply in all respects with, and shall ensure that the Service Provider's agents, employees and representatives whomsoever comply with the Law.

45.2 Without prejudice to the generality of sub-clause 1 above (general compliance with the Law provision), the Service Provider must not unlawfully discriminate against any person in terms of the Equality Act 2010 in its activities relating to the Framework Agreement or any other contract with the Authority.

45.3 The Service Provider shall take all reasonable steps to ensure the observance of the provisions of sub-clause 1 above by all of their servants, employees, agents, consultants and sub-contractors.

45.4 If the cost to the Service Provider of the performance of its obligations under the Framework Agreement shall be increased or reduced by reason of the making after the date of the Framework Agreement of any relevant Law that shall be applicable to the Framework Agreement the amount of such increase shall be borne by the Service Provider.

46. Offences

46.1 The Service Provider must not commit or attempt to commit any offence:

46.1.1 under the Bribery Act 2010;

46.1.2 of fraud, uttering, or embezzlement at common law; or

46.1.3 of any other kind referred to in regulation 58(1) of the Public Contracts (Scotland) Regulations 2015.

46.2 Breach of clause 46.1 is a material breach for the purposes of clause 42 (Termination Rights).

47. Tax Arrangements

47.1 Where the Service Provider is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

47.2 Where the Service Provider is liable to National Insurance Contributions (NICs) in respect of consideration received under this Framework Agreement, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

47.3 The Authority may, at any time during the term of this Framework Agreement, request the Service Provider to provide information which demonstrates how the Service Provider complies with sub-clauses 47.1 and 47.2 above or why those clauses do not apply to it.

47.4 A request under sub-clause 47.3 above may specify the information which the Service Provider must provide and the period within which that information must be provided.

47.5 The Authority may supply any information which it receives under clause 47 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

47.6 The Service Provider shall take all reasonable steps to ensure the observance of the provisions of this clause 47 by all of their servants, employees, agents, consultants and sub-contractors.

47.7 Where the Contactor enters into any sub-contract with any of its servants, employees, agents, consultants and/or sub-contractors, the Service Provider must ensure that a provision is included which is in the same terms as this clause 47 subject only to modification to refer to the correct designation of the equivalent party as the Service Provider.

47A Supply Chain Transparency & Protections

Knowledge of the supply chain

47A.1 In performing its role, the Service Provider will ensure that the suppliers operating in its supply chain (the "the Service Provider's Suppliers") prepare and maintain a written supplier code of conduct or supplier policy that addresses the following.

- child labour,
- forced labour,
- working hours,
- wages,
- discrimination,
- health and safety,
- freedom of association,
- collective bargaining,
- disciplinary practices,
- humane treatment of workers,
- training,
- engagement with NGOs, and
- worker grievance procedures .

The Service Provider will provide the Authority with a copy of the Service Provider's Suppliers codes of conduct or supplier policies on request.

- 47A.2 The Service Provider will ensure that the Service Provider's Suppliers prepare and maintain appropriate policies and procedures to identify, manage and mitigate labour and human rights risks in their supply chains relevant to this Framework Agreement (the "Service Provider Supply Chain").
- 47A.3 The Service Provider will, within 60 Working Days of the Framework Commencement Date, provide the Authority with the names, locations and details of the roles of sub-contractors (including details of the factories used by sub-contractors and specific components produced in each factory) within the Service Provider Supply Chain. The Service Provider will notify the Authority of any changes as soon as reasonably practicable.
- 47A.4 The Authority will have the right to share with participating framework public bodies all information provided by the Service Provider in relation to these Supply Chain Protection provisions.

Supply chain working conditions

- 47A.5 The Service Provider will submit an annual written report to the Authority outlining the Service Provider's objectives, targets and specific actions for monitoring and improving labour standards and working conditions within the Service Provider Supply Chain.
- 47A.6 The Service Provider will ensure that all Goods supplied under this Contract are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin.
- 47A.7 In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider must ensure the following:
- 47A.7.1 forced, bonded (including debt bonded) or indentured labour, involuntary or exploitative prison labour, slavery or trafficking of persons is not permitted;
- 47A.7.2 child labour is not used in any stage of manufacturing or in the provision of services or supplies;
- 47A.7.3 workers do not undertake excessive working hours. For the purposes of this Framework Agreement, working hours must not exceed the maximum set by local law; a working week must not be more than 60 hours per week, including overtime, except in emergency or unusual situations and workers shall be allowed at least one day off every seven days;
- 47A.7.4 compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits; in compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates; that deductions from wages as a disciplinary measure shall not be permitted; that for each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed; and that all use of temporary, dispatch and outsourced labour will comply with local laws;
- 47A.7.5 all workers must have the right to form and join trade unions, of their own choosing, to bargain collectively and to engage in peaceful assembly and the right of workers to refrain from such activities must be respected;
- 47A.7.6 workers must not be subject to any harsh or inhumane treatment, including any sexual harassment, sexual abuse, corporal punishment, mental or physical coercion or verbal abuse of workers; nor is there to be the threat of any such treatment;

47A.7.7 workers must not be subject to harassment or unlawful discrimination; and

47A.7.8 workers must be provided with safe and healthy working conditions.

47A.8 In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider will ensure the following:

47A.8.1 compliance with all applicable whistleblowing laws, statutes and regulations in force from time to time in the jurisdiction where the Goods are manufactured;

47A.8.2 implementation of an appropriate (e.g. anonymous) whistleblowing policy which encourages openness and ensures support and protection from detrimental treatment for workers which raise genuine concerns.

Managing risks in the supply

47A.9 The Service Provider will require the Service Provider's Suppliers to audit, evaluate and report in writing to the Service Provider not less than once every twelve (12) months on performance against the Service Provider's Suppliers' codes of conduct and or supplier policies and their policies on labour and human rights impacts in respect of the Service Provider Supply Chain. The Service Provider shall provide the Authority on request with a copy of any such reports in so far as they relate to the Service Provider Supply Chain.

47A.10 The Service Provider will ensure that the Service Provider's Suppliers undertake a defined program of supply-chain audits. Audits must be undertaken by its own accredited audit team or third party accredited certification bodies, and independently verified. These audits must either include or be supplemented by external consultation and engagement with local labour unions or civil society organisations/NGOs, and off-site worker interviews to gain a more accurate understanding of working conditions. The Service Provider shall provide the Authority on request with a copy of any such audits, and supplementary evidence where relevant, in its possession or control in so far as they relate to the Service Provider Supply Chain.

Corrective and preventive measures to ensure social responsibility in the supply chain

47A.11 The Service Provider will ensure the outcomes of the Service Provider's Suppliers supply-chain audits are subject to corrective actions by the Service Provider's Suppliers in a timely manner. The Service Provider shall provide the Authority on request with details in its possession or control of any actions taken or proposed to be taken in so far as they relate to the Service Provider Supply Chain .

47A.12 The Service Provider will actively engage with the Service Provider Supply Chain to ensure continuous improvement in labour and human rights standards and supplier compliance with such standards .

47A.13 The Service Provider will ensure that the Service Provider's Suppliers communicate and report progress in addressing labour and human rights issues within the Service Provider Supply Chain not less than once every twelve (12) months .

Measures to control the supply chain

47A.14 The Service Provider will ensure that the Service Provider's Suppliers' sourcing policies address labour and human rights impacts during the extraction phase of production and include the use of conflict free smelters in accordance with the [Responsible Minerals Initiative](#). The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers provide and maintain a written list of tantalum, tin, tungsten, and gold smelters/refiners reported by the Service Provider Supply Chain and provide the Authority on request with details.

47A.15 The Service Provider will ensure that the Service Provider's Suppliers implement and adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (as the same may be updated from time to time) and produce a publicly viewable annual summary of their due diligence and risk management measures consistent with this guidance.

47A.16 The Service Provider will provide the Authority on request with evidence of direct and ongoing collaboration by the Service Provider's Suppliers with external organisations (such as NGOs, civil society organisations and governments) to address labour and human rights impacts on the Service Provider Supply Chain.

Supply chain contract termination

47A.17 The Service Provider will ensure that all contracts in the Service Provider Supply Chain give the Service Provider a right to terminate the sub-contract if the supplier fails to comply with legal obligations in the fields of environmental, social, labour or human rights law.

48. Blacklisting

48.1 The Service Provider must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a material default which shall entitle the Authority to terminate the Framework Agreement.

49. Conflicts of interest

49.1 The Service Provider must take appropriate steps to ensure that the Authority is not placed in a position where, in the reasonable opinion of the Authority, there is an actual or potential conflict between the interests of the Service Provider and the duties owed to the Authority under the Framework Agreement.

49.2 The Service Provider must disclose by notice to the Authority full particulars of any actual or potential conflict of interest which may arise and must take such steps as are necessary to avoid or remove the conflict of interest.

49.3 Breach of this clause by the Service Provider is a material breach for the purposes of clause 42 (Termination Rights).

50. Consequences of Expiry or Termination

50.1 Where the Authority terminates the Service Providers interest in the Framework Agreement under clause 42 (Termination Rights) (except for termination under clause 42.4) and makes other arrangements for the supply of Services, the Service Provider indemnifies the Authority against all costs reasonably incurred by it in making those arrangements. Nothing in this clause shall prevent the Authority from making any other claim against the Service Provider for any other loss suffered by the Authority as a result of termination referred to in this clause nor shall it prejudice any such claims

50.2 The termination of this Framework Agreement in accordance with clause 42 (Termination Rights) and/or clause 43 (Termination on Insolvency and Change of Control) or its expiry shall not affect the accrued rights of either party.

50.3 Following the service of a termination notice, the Service Provider shall continue to perform its obligations in accordance with the provisions of this Framework Agreement until termination.

50.4 The following provisions survive the expiry or termination of this Framework Agreement

50.4.1 clause 1 (Definitions and Interpretation);

- 50.4.2 clause 8 (Award Procedures);
 - 50.4.3 clause 10 (Official Secrets Acts);
 - 50.4.4 clause 13 (Recovery of Sums Due);
 - 50.4.5 clause 14 (Data Protection);
 - 50.4.6 clause 15 (Transparency and Freedom of Information);
 - 50.4.7 clause 16 (Authority Protected Information);
 - 50.4.8 clause 17 (Service Provider Sensitive Information);
 - 50.4.9 clause 18 (Audit [and Records Management]);
 - 50.4.9 clause 19 (Publicity);
 - 50.4.10 clause 21 (Offers of Employment);
 - 50.4.11 clause 23 (Information about Service Provider Employees);
 - 50.4.12 clause 26 (Parties pre-existing Intellectual Property Rights);
 - 50.4.13 clause 27 (Specially created Intellectual Property Rights);
 - 50.4.14 clause 28 (Licences of Intellectual Property Rights);
 - 50.4.15 Clause 29 (Claims relating to Intellectual Property Rights);
 - 50.4.16 clause 33 (Warranties and Representations);
 - 50.4.17 clause 34 (Indemnity);
 - 50.4.18 clause 37 (Dispute Resolution Procedure);
 - 50.4.19 clause 39 (Waiver and Cumulative Remedies);
 - 50.4.20 clause 47 (Tax arrangements);
 - 50.4.21 this clause 50 (Consequences of Termination); and
 - 50.4.22 clause 52 (Governing Law and Jurisdiction).
- 50.5 Immediately upon termination of the Framework Agreement for any reason whatsoever the Service Provider shall render such reasonable assistance to the Authority or third party nominated by the Authority, if requested, as may be necessary to effect an orderly assumption by a Replacement Service Provider of the Services previously performed by the Service Provider under the Framework Agreement. The Service Provider shall be entitled to charge for such termination services in accordance with provisions contained in the Exit Management Plan.
- 50.6 On expiry or termination of the Framework Agreement the Service Provider must:
- 50.6.1 immediately return to the Authority all Authority Property and Authority Protected Information in its possession; and
 - 50.6.2 destroy or delete any copies of Authority Protected Information (whether physical or electronic) in its possession.

51. Entire Agreement

- 51.1 This Framework Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with herein. This Framework Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause does not exclude liability in respect of any misrepresentation (whether in the ESPD or Tender or otherwise).
- 51.2 In the event of, and only to the extent of, any conflict between the clauses of this Framework Agreement, the Schedules and any document referred to in this Framework Agreement, the following order of precedence applies:
- 51.2.1 the clauses of this Framework Agreement;
 - 51.2.2 the Standard Terms of Supply;
 - 51.2.3 the other Schedules; and
 - 51.2.4 any other document referred to in the clauses of this Framework Agreement.

52. **Governing Law and Jurisdiction**

This Framework Agreement is governed by and interpreted in accordance with Scots law and, subject to clause 37 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents typewritten on this and the [34] preceding pages together with the [11 schedules] annexed hereto are executed as follows:

SIGNED for and on behalf of the Scottish Ministers **SIGNED** for and on behalf of Vodafone Ltd

At REDACTED

At REDACTED

On REDACTED

On REDACTED

Signature REDACTED

Signature REDACTED

Full name REDACTED

Full name REDACTED

Position REDACTED

Position REDACTED

Address REDACTED

Address REDACTED

In the presence of

In the presence of

Signature. REDACTED

Signature REDACTED

Full name REDACTED

Full name REDACTED

Address REDACTED

Address REDACTED

This and the following 23 pages comprise Schedule 1a to the Framework Agreement between the Scottish Ministers and Vodafone Ltd

SCHEDULE 1a – SPECIFICATION AND SERVICE LEVELS

SECTION A: INTRODUCTION

1 Introduction

1.1 The Scottish Ministers are seeking to establish a single supplier Framework Agreement for the provision of Mobile Voice and Data Services, providing a wide range of Mobile Voice and Data and associated value added services across all geographical areas of Scotland and with consistent levels of service across the Scottish public sector.

1.2 The key aims of the Framework Agreement are to:

- Leverage the Scottish public sector spend to attract best value;
- To provide value for money offerings for participating Framework Public Bodies
- Provide a direct and straight-forward route to market for Framework Public Bodies and a co-ordinated central point of contact for contract management;
- To ensure optimum network coverage and capacity within Scotland;
- To maximise procurement efficiency and secure savings by establishing a national collaborative framework that will cover core mobile voice and data services and a wide range of value add additional/optional services.
- Encourage the provision of tangible Community Benefits;
- Manage Service Provider performance and price competitiveness via a Balanced Scorecard and robust contract management process;
- Maintain a sufficient standard of security of ISO 27001:2013 or equivalent accreditation in relation to the delivery of the Framework Agreement.
- Maintain a sufficient standard of Cyber Resilience.

1.3 The Mobile Voice and Data Services Framework will be available to Scottish Framework Public Bodies and is designed to support [Realising Scotland's full potential in a digital world: a digital strategy for Scotland](#) and to ensure ICT is deployed in an energy-efficient manner which reduces the carbon footprint of Scottish public sector organisations. The [Green ICT Strategy](#) and [Climate Change Plan](#) support the Scottish Government's objective for [A Greener Scotland](#) and organisations will be encouraged to contribute to their own vision for a cost effective, sustainable and energy efficient ICT estate by purchasing through the National Frameworks.

1.4 In order to maximise the use of the Framework Agreement, at no additional cost, the Service Provider will be required to support the Authority in promoting the Framework Agreement across the Scottish public sector. The Service Provider will be required to actively promote and market the benefits of the Framework Agreement, including cost, environmental, community benefit, resource and operational efficiencies. This activity will be managed by the Service Provider in conjunction with the Authority.

1.5 The Service Provider will be expected to meet the requirements established within this Schedule 1 and other associated mobile voice & data services as may be required, and also to ensure the delivery of a high quality service to the Framework Public Bodies using this framework. The Service Provider will be expected to demonstrate and implement leading

industry practices within internal and customer-facing processes. They will be expected to fully participate in continuous improvement and other initiatives to ensure the long term success of the contractual relationship and that value received by Framework Public Bodies is significantly and demonstrably greater than could be achieved by sourcing Mobile Voice and Data Services elsewhere.

2. Framework Duration

- 2.1 The framework period will be two (2) years with an option to extend for an additional period of one (1) year.
- 2.2 Call Off contracts will be for a minimum period of 24 months and can be for a period of up to 48 months. This will be determined individually by Framework Public Bodies.
- 2.3 The Service Provider will not apply a minimum term or revenue to an individual connection and Framework Public Bodies will be able to add and remove individual connections (including porting numbers out where necessary) throughout the call-off period and any extension period with no early termination fee.
- 2.4 Where a tech fund / equipment credit has been provided and a connection is removed within 24 months, a percentage of the credit provided will be returned to the Service Provider on the following basis:

$$((24 - \text{number of months connected}) / 24) * 100\%$$

For example: £50 credit provided – connection terminated after 6 months

$$= (24 - 6) / 24 * 100\% \\ = 75\%$$

In this example 75% of £50 which is £37.50 would be returned to the Service Provider.

- 2.5 This is not an exclusive or sole supply agreement. If the Framework Public Body, decides to take-up the services of another service provider during the framework term in addition to their call-off contract they may do so at their own discretion.

3. Scope

- 3.1 The scope of the Framework Agreement is for the provision of Mobile Voice and Data Services as detailed below. (The Service Provider must be able to provide all core and Additional / optional services listed, subject to the additional information detailed below):

3.2 Services

3.2.1. Calls and SMS

- a) The ability to make and receive voice calls
- b) The ability to send and receive short message service (SMS)
- c) The provision of voicemail services
- d) Wi-Fi calling is enabled and available (on compliant handsets) to allow phone calls and text messages to be sent over wireless internet networks rather than over the mobile network.
- e) Wi-Fi calling should be seamless, e.g., no call drop-out when moving between Wi-Fi and mobile network connection
- f) Framework Public Bodies have a requirement for the identification and management of voice and data usage

3.2.2. Data Services

- a) The provision of mobile data connectivity and services (for example 1, 3, 5, 10, 20 & 40 GB)
- b) The provision of mobile email services (push and pull)
- c) Framework Public Bodies have a requirement for the identification and management of voice and data usage
- d) The Service Provider will provide text alerts to individual end users to advise of the data usage over the monthly period, and will be notified when they reach to following thresholds, 80% and 100%.

3.2.3. Mobile Devices

- a) The provision of mobile devices (phones, smartphones, tablets) which shall also be available on a SIM/connection free basis.
- b) Mobile devices shall be provided unlocked; or will be unlocked at no additional charge to the Framework Public Bodies at least thirty (30) days prior to the expiry or termination of the Call Off agreement.
- c) The Framework Public Body wishes to choose from a wide range of devices at their discretion should a device be required. The Framework Public Body cannot provide information on their expected device requirement (both volume and specification) and therefore require a flexible approach to device purchase. The Framework Public Body may wish to realise further savings by reusing existing equipment wherever possible.
- d) The Framework Public Body will be able to select devices from the full range and at the price stipulated in the Service Provider's standard public sector device catalogue, or at any discounted price as agreed in the Framework. Alternatively the Framework Public Body may choose to procure their devices from an alternative Service Provider or framework.
- e) When requested by the Framework Public Body, the Service Provider will provide a device from their standard public sector device catalogue for testing for compatibility with the Framework Public Body's systems. All usage incurred on the test device is chargeable at the tariffs agreed between the Service Provider and the Framework Public Body.
- f) Details of the anticipated lifecycle for devices will be regularly made available by the Service Provider and product upgrade paths / technology road maps must be shared with the Framework Public Body.
- g) The Service Provider will use its reasonable endeavors to provide a minimum of three (3) months' notice of obsolescence for devices used by the Framework Public Body.
- h) Once a Customer reports a defective device under warranty, the Service Provider shall provide a replacement device to the Customer at no additional cost in accordance with the following service level:
 - Informed prior to 12.00 Noon: the next working day; or
 - Informed after 12.00 Noon: by the end of the second working day after notification.
- i) If the device to be replaced is obsolescent / obsolete and an identical replacement cannot therefore be provided, an alternative with equal or higher specification will be offered to the Framework Public Body. Acceptance of the alternative is at the discretion of the Framework Public Body and will not be unreasonably withheld.
- j) The Service Provider will provide an appropriate range of accessories for each device offered including spare batteries, chargers and cases. It is expected the accessory range will be in the Service Provider's standard public sector device catalogue.
- k) All SIM cards will be provided free of charge, including replacement SIMS where the original SIM card is no longer the correct size for the end user's new device, has been lost, stolen or subject to non-malicious damage.
- l) Wherever possible, devices with pre-loaded applications undesirable to the Framework Public Body (such as social networking, games etc.) must have the ability for them to be removed by the Framework Public Body or by the Service Provider free of charge.
- m) Tech Fund / Equipment Credit - The Framework Public Body can use the tech fund / equipment credit to purchase:
 - hardware from the Service Providers standard public sector device catalogue (phones, smartphones, tablets and accessories);
 - professional services

- network coverage solutions; or
- at the discretion of the Service Provider, fund other services within the scope of the Framework.

3.2.4. **Account Management**

- a) This is a key element of the required service. It is not priced separately and is included within the other core services pricing.
- b) The service Provider will provide a named individual for each call off contract to deal with account management activities.
- c) The quality of service provided to Framework Public Bodies shall be consistent regardless of number of connections, size and geographical location.
- d) The ability for Framework Public Bodies to have a single account with multiple subsidiary accounts.
- e) The Service Provider must provide an online portal to allow Framework Public Bodies to manage their accounts (including, billing, ordering, management etc) and to provide training.

3.2.5 **Converged Mobile Services**

The Service Provider shall provide converged fixed mobile services to create seamless services between Framework Public Bodies fixed and mobile telephony in their offices, homes, other buildings and on the go.

3.2.6 **Lone and Remote worker services**

The Service Provider will partner with the Framework Public Bodies to provide suitable, safe and robust remote and lone worker service to the specific requirements of the particular Body. This should include equipment and an emergency response centre. These would contribute to the safety and assistance of Framework Public Bodies staff when they are out of the office in remote locations or when working alone.

3.2.7. **Mobile Device Management**

The Service Provider shall provide a mobile device management (MDM) solution which shall enable Framework Public Bodies to secure and enforce their internal policies and optimise functionality and security of mobile devices across multiple mobile operating systems that Framework public bodies may use, including, but not limited to:

- Apple iOS
- Android

Core functions required of the MDM solution include, but not limited to:

- Available as on premise or Cloud (SaaS)
- Management of Android enterprise including but not limited to Samsung KNOX, iOS/iPadOS, Windows 10 and optionally BlackBerry, macOS and Chrome OS devices.
- Android enterprise support should include support for;
 - Work profile (Bring Your Own Device(BYOD) enrolment)
 - Fully Managed (Corporate Owned Business Only (COBO) enrolment)
 - Fully Managed with work profile (Corporate Owned Personally Enabled (COPE) enrolment)
- Support Apple & Google Access Point Names (APNs)
- Secure VPN for Android and iOS/iPadOS
- Secure containerised productivity apps for email, web, collaboration and content access
- Interoperability with the Microsoft Office mobile apps
- Configuration and deployment of device/app policies/profiles
- Configuration of device/app compliance policies/rules
- Publishing of a corporate application catalogue
- Jailbreak/Root detection
- Device compliance notifications that notify the end user when their device doesn't meet organisational requirements

- Remote Wipe of corporate data
- Remote Wipe of entire device
- Support for device and app deployment solutions: Apple Business Manager, Samsung KNOX Mobile Enrolment.
- End user self-service portal for setting enrolment passwords and management of their own devices.

3.2.8. Professional Services

Professional Services refer to the application of business and technical expertise to enable Framework Public Bodies to create, manage and optimise the Mobile Voice and Data services within their organisations.

3.2.9. Managed Service

- Provision of a managed service for mobile telephony account, this should include various tiered options of service including as a minimum; onsite dedicated resource, offsite dedicated resource, offsite shared resource and online shared resource.
- Staff allocated by the Service Provider to provide the managed service must comply with the Framework Public Body's' security requirements which at a minimum is BPSS. Any cost associated with these security requirements will be met by the Service Provider.
- Managed service shall include dealing with queries, providing assistance and help to customers, dealing with orders, billing and all other tasks agreed with the Framework Public Body.
- Typical activities that the managed service may include, but are not limited to:
 - User Account Maintenance (Roaming/International/call bars etc.)
 - Processing orders
 - Managing Disconnections/Suspension
 - Maintain and Manage a Bespoke Customer Service Manual
 - Use of Customer Systems for Orders/Billing/Approval/Requests etc.
 - Update Tariff and Pricing on Customer Intranet/Catalogue
 - Lost & Stolen Device Processing
 - Request Approval Validation
 - Respond to End User Queries (Email/Call)
 - Respond to Billing/Invoice Queries
 - Priority Support
 - Inventory Management
 - Weekly Conference Calls with Key Users if required
 - Device Set Up and Support
 - Provide End User Advice in Line With Customer Mobility Policy
 - Act as a Liaison Between Customer & Service Provider Stakeholders
 - Weekly Updates With Main Contacts
 - Identify Service Improvement and notify Service and Account Management
 - Cost Saving Reporting
 - Zero Usage Reporting
 - Connection Reporting
 - Connection/Disconnection Reporting
 - Bulk Updates
 - Tech Fund / Equipment Credit Balance Reporting
 - Order Reporting
 - Support Customer on Bespoke Service Requirements
 - Support in Applicable Device Projects/Rollouts
 - Enhanced Implementation Services (including field based support)

3.2.10. Device Disposal and Management

Framework Public Bodies may have a requirement for the secure disposal and recycling of mobile devices. Services required may include but not be limited to

- a) Provision of a deletion / wiping service for mobile devices including the confirmation, and provision of proof, that data has been deleted in a secure manner.
- b) Detailed recycle and reuse plans
- c) All services must have a clear audit trail
- d) Devices should be disposed of in a way that revenue can be accrued by the Framework Public Body following disposal wherever possible.
- e) All devices must be disposed in line with relevant WEEE policy and where possible recycled in line with the requirements of the Waste Hierarchy (Reduce, Reuse, Recycle)

3.2.11. **Handset Insurance**

The Service Provider shall provide a range of insurance options including options for both full cover and accidental damage.

3.2.12 **Shared and Aggregated Data**

- a) Provision of shared data (licenced)
Provision of an aggregated data service

3.2.13. **5G**

- a) Provision of 5G data packages and services as these become more widely available throughout the course of the Framework.
- b) It is understood that 5G is not currently widely available throughout Scotland, however the Service Provider must be able to provide this service as soon as it becomes available on their network.

3.2.14. **Mobile IoT**

A range of Data provisions for IoT networks and devices

3.2.15. **International Calls and Roaming**

- a) Provision of daily and monthly costs for international calls and data, offering unlimited voice and SMS (subject to fair usage policy) and various levels of international data (for example 1, 3, 5, 10, 20 & 40 GB)
- b) International roaming will currently be offered in 2 options:
 - o North America
 - o Rest of the world
- c) In the event that roaming charges are re-introduced within Europe following the UK's potential exit from the European Union (EU), the Service Provider agrees to enter into meaningful discussions with the Authority in relation to how this will be progressed.
- d) All mobile originating and terminating voice and SMS includes all calls and SMS of the following type:
 - o UK Landline
 - o UK Mobile Network
 - o UK Non-geographic numbers prefixed, including but not limited too; 0300, 0800, 0808, 0500, 116
 - o Voicemail
 - o All other call types not listed herein are excluded from the bolt on.
- e) The International Voice & SMS or Data Bolt-ons can be applied or removed to a connection at any time by the Framework Public Body
- f) The Service Provider shall not apply an early termination fee to any International Minute, SMS or Data Bolt ons.

3.2.16. **Mobile Accessories**

Provision of mobile accessories, including but not limited to; chargers, car kits, phone and tablet cases, Bluetooth headsets and screen protectors.

3.2.17. **Device Deployment solutions**

- a) The Service Provider will offer and support the following device deployment solutions.

- Apple Device Enrolment Programme (DEP)/Apple Business Manager (ABM)
 - Samsung KNOX Mobile Enrolment (KME)
- b) For each of these solutions the Service Provider will be able to;
- (i) Add any new devices purchased under the call off contracts and supported by any of the above solutions should be automatically added to the collaborating partners account by the Service Provider.
 - (ii) Allow devices issued or replaced e.g. due to hardware faults to be automatically added or removed from the service by the Service Provider.

3.2.18. Access Point Name (APN) Services

- a) Provision of APN IPsec connections (including those for 4G)
- b) APN should have different connectivity options available to Framework Public Bodies

3.2.19. Mobility apps

The Service provider should have the ability to provide a service providing business applications in line with a Framework Public Bodies mobility requirements. The service provider should have the ability to provide cross platform (iOS and Android) capabilities. The service provider and/or its sub-contractor(s) must have experience of complex application developments in multiple integration environments.

3.3 Anchor Customer

The Authority has identified a number of anchor customers that have registered a strong interest in using the framework; this comprises 11 organisations with a current requirement of around 13,000 connections. These organisations can however opt out of using the framework agreement if they do not feel the framework solution offers them best value for money or service levels, including coverage.

SECTION B – REQUIREMENTS

4. Service Delivery

- 4.1 The Service Provider shall make available the full range of Services outlined in Section 3.2 of this Specification
- 4.2 The Service Provider shall be required to provide services, where these are available, to organisations with locations across the whole of Scotland. Each Framework Public Body will have its own specific requirements and needs in terms of service delivery, type of equipment and sustainability outcomes. The Service Provider will be expected to deliver consistently high-levels of service on a cost-effective and best value basis to each Framework Public Body irrespective of number of connections, size or geographic location.
- 4.3 Services provided under the Framework Agreement will support the operation of in-scope business as stated. The Authority considers effective performance and delivery of the required services to be a business critical objective of the Framework Agreement. As such, the Service Provider shall be open, flexible and transparent in the operation and management of the Framework Agreement and any call-off contract, and shall develop and implement appropriate due-diligence and risk management measures to ensure that services are delivered on time, within budget and in accordance with the agreed service levels and performance targets.
- 4.4 The Service Provider shall liaise with the Authority and Framework Public Body staff to ensure that incidents are resolved promptly and with a minimum of disruption to existing services or operations.

5. Staffing, Knowledge and Expertise

- 5.1 The Service Provider shall ensure that all staff engaged in the performance of the Framework Agreement have an appropriate level of knowledge and expertise.
- 5.2 The Service Provider's staff must be appropriately trained and qualified and be competent to deliver the required services. This may include, but is not limited to, operation of the Framework Agreement and procedures concerning health and safety at work and sustainability.

6. Voice Service Requirements

- 6.1 The Service Provider will provide a Voicemail service.
- 6.2 All connections will be enabled for International roaming (voice and data) unless a bar is otherwise agreed with the Framework Public Body.
- 6.3 The Service Provider will add or remove service bars referred to above upon request by the Framework Public Body. The Service Provider will be liable for all usage charges for these services where it is found that a bar was not in place when one was requested by the Framework Public Body and acknowledged as in place by the Service Provider.
- 6.4 The Service Provider can offer a number of call barring features which can be supplied to individual connections or across all devices. The Framework Public Body will liaise with the Service Provider to agree the applicable format.
- 6.5 The Service Provider is required to place Bars on other calling groups (for example 118 numbers) upon request by the Framework Public Body.

7. Call Inclusive Tariff - General Requirements

- 7.1 The Call Inclusive Bolt-on includes all calls and SMS of the following type:
- UK Landline;
 - UK Mobile Network;
 - UK Non-geographic numbers prefixed: 0300, 0800, 0808, 0500, 116;
 - Voicemail
 - All other call types not listed herein are excluded from the Bolt-On.
- 7.2 The Fair Usage Policy (FUP) – Call Inclusive Bolt-On only;
- 7.3 Unlimited calls and texts are designed for normal person to person use only to UK mobile and landline numbers (01,02,03) and are subject to the following fair use policy: 3,000 minutes per user per month of landline calls, 3,000 minutes per user per month of mobile calls, 3,000 text messages per user per month, and no more than 300 different numbers dialled in a month. 0800/0808/0500/116 numbers are included, but other premium rate or special numbers are excluded.

8. Data Service Requirements

- 8.1 The Data required is for 4G network connectivity by default, only reverting to other network connectivity where 4G coverage is unavailable unless otherwise specified by the Customer.
- 8.2 Data access will be barred automatically to all connections by the Service Provider unless a Data Bolt-On is applied to a connection or otherwise agreed in writing by the Framework Public Body. Framework Public Bodies will not be charged for any data usage (including device firmware and software updates) when data has not been requested or agreed. Framework Public Bodies may require data access to connections be disabled after a Data Bolt-On is cancelled.

- 8.3 To mitigate against “Bill Shock” for inadvertent data usage charges, by default each connection will be subject to a maximum monthly data usage charge of £50 plus the monthly recurring charge to access the data Service (Bolt-on) associated to that connection. If the Framework Public Body wishes to have a different monthly data usage charge applied or indeed to have any connections uncapped they will agree this with the Service Provider.
- 8.4 The Service Provider will provide a range of bundles of data to use on any type of data enabled mobility device that will take a SIM card, allowing tethering at no additional charge. These will include, but not be limited to: Smartphones, Tablets, Laptops (dongles/cards), IoT enabled devices and Machine to Machine (M2M) technologies using any type of platform including, but not limited to, proprietary, Open Source or enterprise class operating systems, eg, iOS, Android and Windows.

9. Mobilisation and Implementation

- 9.1 Framework Public Bodies using the framework may have differing levels of technical knowledge and differing levels of Mobile Voice and Data Services requirements. The Service Provider must work with the Framework Public Bodies, to transition their Mobile Voice and Data Services provided under the Framework. This will be a standard offering included within the Service Providers offering and must include as a minimum desk based support and a dedicated telephone number available 0800 to 1800 Monday to Friday, excluding bank holidays in Scotland, within the meaning of the Banking and Financial Dealings Act 1971, throughout the contract period. This service must provide over the phone support for the following (as a minimum);
- Set up and installation of SIMs / Self-serve set up
 - Troubleshooting connectivity issues
 - Porting issues
 - Unlocking devices
 - Changeover of devices (including reconfiguration)
- 9.2 The Service Provider will be required to develop and maintain an Implementation Plan which defines how the call-off contract will be implemented, staffed, operated and managed to ensure the effective delivery of the Specification and Service Levels outlined in this Schedule and elsewhere in the Framework Agreement.
- 9.3 The Service Provider will submit the Implementation Plan to the Framework Public Body within 10 Working Days, or in accordance with mutually agreed timescales, following the award of the call-off contract.
- 9.4 The Service Provider will allocate a named Transition/implementation Manager to assist Framework Public Bodies with the migration of their services.
- 9.5 The Service Provider will provide onsite support proportionate to the number of customer connections, e.g. 8 hours of onsite support per 200 connections. The Customer will agree with the Supplier when this support will be best utilised in whole day blocks.
- 9.6 The Service Provider must notify the Framework Public Body of any implementation delays as soon as they are identified, identify all actions the Service Provider is undertaking to mitigate any delay and seek the Framework Public Body’s agreement of this action plan.
- 9.7 The Service Provider should note that Framework Public Bodies are likely to transition their connections over a period of time.
- 9.8 Service Providers will be required to undertake appropriate security and other checks, including Disclosure Scotland, necessary to ensure that their staff are suitably screened in order to undertake the services in sensitive locations such as schools, and government buildings, in accordance with the terms and conditions and security schedule. Details of Disclosure Scotland requirements can be found at: <http://www.disclosurescotland.co.uk>.

Framework Public Bodies will be expected to inform the Service Provider of any sensitive locations where security clearance is required. There will be no additional charge for the provision of security cleared personnel to the Authority and/or Framework Public Body.

- 9.9 The Service Provider will be required to provide a clear high level on-boarding process plan which details how a Framework public body will transition to the Service Provider. The Service Provider will also provide clear details on the process for building the tariffs required from the Framework Agreement, including timescales.

10. Framework and Call-off Contract Account Management

- 10.1 Effective management is critical to the successful implementation and running of the Framework Agreement. The Service Provider is required to provide and maintain adequate management and staff resources, including a named Framework Account Manager to support the strategic and day to day operation and management of the Framework.
- 10.2 The Account Manager should act as the Single Point of Contact (SPoC) for the purposes of operating the Framework and will be responsible for ensuring the effective marketing, mobilisation, implementation, delivery and exit management of the Agreement.
- 10.3 The Account Manager will ensure that the agreed service levels are achieved and consistently high levels of service and best value are assured and maintained throughout the period of the Framework Agreement.
- 10.4 Framework Public Bodies using the Framework Agreement must be provided with a named Account Manager to act as a SPoC to support the management and delivery of any individual call-off contracts established via the Framework Agreement. This includes all aspects of the contractual service, operational queries and complaints relating to their call off contract. They will be held responsible for ensuring that all requests are dealt with to the Framework Public Body's satisfaction in a timely manner. They must also ensure that all management information is consolidated and issued in line with the agreed service levels.
- 10.5 The Account Manager will be expected to address a range of topics with their Framework Public Bodies through their Account Management function, including but not limited to:-
- Devices: availability, product life cycle, ranging of new devices and pricing via the Service Providers standard public sector device catalogues
 - Performance against service levels
 - Network performance
 - Technology and Service updates and refreshes
 - Account database changes
 - Changes to billing formats
 - Invoicing issues
 - Tariff optimisation and recommendations, including identification of 'zero use' connections and options to optimise accounts
 - Health and Safety issues (by exception)
 - Regular account reviews and identification of significant new requirements
 - Allocation / escalation of issues to other teams such as technical advisors, fraud investigation or credit control
 - Provision of Management information to the Customer, including analysis on Customer Spend.
- 10.6 All Customers must be able to access the account management service through a dedicated telephone number and web chat service available 0800 to 1800 Monday to Friday excluding Bank Holidays in Scotland, within the meaning of the Banking and Financial Dealings Act 1971 as a minimum throughout the contract period. This could be used to address issues, complaints, order status and account enquiries and for the reporting of lost or stolen mobile devices.

10.7 The Service Provider shall provide an online portal to enable Customers to (indicatively):

- Place Orders (eOrdering)
- Undertake moves, adds/deletions and changes to tariffs
- Check Order Status
- Make payments electronically (ePayment)
- Access online account management services
- Raise faulty device returns
- Ask customer support and technical support questions
- Receive alerts for each connection, account or cost code
- Run, compile and receive reports
- Add additional log-on details for additional users, upon request.
- Tier access rights to accommodate different types of users such as Administrator, Account/Cost Code Manager, Team Manager.

10.8 Any services not provided via an online portal must be accessible via the account management service.

10.9 The Service Provider will respond in a timely manner to all call-off requests and shall maintain a record of all call-off activity. This information will be provided to the Authority as part of the Management Information.

10.10 Further details of the framework management arrangements can be found in the Framework Terms and Conditions and at Schedule 4 – Management Arrangements.

10A eCommerce

10.1A The effective use of technology is at the heart of procurement reform and Scottish Procurement is leading a number of core initiatives to ensure that public procurement delivers value for money and contributes to the Scottish economy.

10.2A The Scottish Government's eCommerce Shared Service brings together all the steps involved in doing business with the public sector in Scotland. It is a collaborative electronic environment, that promotes improved capability across public procurement in Scotland. As well as enabling business to be conducted more simply, consistently and effectively, it plays a key strategic role in delivering and sustaining procurement benefits and best practices. The use of technology presents greater opportunities for procurement managers to influence business by streamlining and standardising procurement process, delivering more effective contracts, monitoring procurement activity and collaborating more effectively.

10.3A The eCommerce Shared Service delivers Purchase-to-Pay (P2P) capability through the following systems:

- PECOS P2P system provides a consistent interface to suppliers through standard order, receipt and invoice functionality. It enables business workflows and audited approval processes to be implemented to ensure compliance to procurement and finance guidelines.
- PECOS Content Manager (PCM) hub hosts electronic catalogues for contracts at national, sectoral and local level. It increases compliance to contracts, drives out appropriate contract management information and embeds standard procedures and processes. The hub allows suppliers and procurement teams to easily manage the upload, validation, approval and publication of electronic catalogues for use by public sector bodies. The hub also enables the distribution of catalogues in a variety of formats, e.g. PECOS, Civica, Parabilis and SciQuest to allow the upload of catalogues into different P2P systems. PCM is currently being used by the procurement Centres of Expertise and a number of individual Contracting Authorities.
- eInvoicing is an electronic service that facilitates the exchange of information between

buyers and suppliers. It allows invoices and related documents to be issued, received and reconciled electronically through a secure channel.

- Each of the systems are available to all Scottish Public Sector Authorities.

10.4A PECOS P2P has been deployed to approximately 92 Scottish public sector Contracting Authorities including local authorities, central government, NHS, universities and colleges.

10.5A PECOS P2P and PCM provide a number of key benefits to Service Providers:

- standard and consistent interfaces to the public sector in the presentation of catalogues, the receipt of purchase orders and payment mechanisms (including eInvoicing and Purchase Cards);
- where Purchase Cards are utilised, suppliers can receive payment in as little as 3 days from when the goods are dispatched from warehouse;
- where catalogues are used, the supplier only needs to amend content once and it then flows to all Contract Authorities using that catalogue;
- receipt of accurate and standard purchase orders which should reduce the number of invoice mismatches; and
- development of eCommerce capabilities to support further business opportunities.

10.6A Supplier eEnablement is the process of enabling suppliers to conduct business electronically through the eCommerce Shared Service. A clear and consistent approach is used by the Service in the e-enablement of suppliers to remove duplication of effort and mixed messages.

10.7A There are a number of different options available to suppliers in the provision of content, transmission of orders and payment of goods/services.

10.8A Content Options:

- eCatalogue - simple to create, using a standard excel template to detail products, pricing, UNSPSC (commodity) coding, images etc.;
- Punch-Out - where a transactional website has already been developed by the supplier, PECOS P2P shall connect to this website allowing users to create a shopping basket and bring back the details to complete the requisition within PECOS P2P;
- Non-Catalogue - allows requisitioners to enter free-text requisitions where none of the above content options are available.

10.9A Purchase Order Transmission Options:

- Post – a paper purchase order is produced by PECOS P2P and posted to the supplier.
- Fax - PECOS P2P creates an electronic fax purchase order that is sent automatically to the supplier.
- E-mail - PECOS P2P produces an PDF purchase order that is automatically sent to the supplier's email inbox.
- cXML - PECOS P2P sends a cXML file directly to the supplier's back office system (please note that there is a one-off charge for this method but allows multiple Contracting Authorities to use the connection).

Preferred option of transmission should be aligned with supplier capability and which option

will be most efficient to support business needs.

10.10A Payment Options:

- Paper Invoice - Supplier submits a paper invoice to the organisation as standard for each purchase order received.
- Embedded Purchase Card - This payment option allows the supplier to charge the cost of the goods/services provided to a VISA/MasterCard electronic Purchasing Card (ePC) belonging to a Contracting Authority. The supplier shall receive payment from VISA/MasterCard therefore negating the need to provide an invoice to the Contracting Authority.
- Consolidated Electronic Invoice - Supplier submits a single invoice covering multiple purchase orders in an electronic file.
- Self-Billing - Once the Goods Received Note (GRN) has been entered on PECOS P2P, a payment instruction is automatically sent to the Contracting Authority's finance system to make payment to the supplier for the goods/services received.
- Electronic Invoices - Supplier submits an electronic invoice either directly to PECOS P2P/relevant system (cXML) and/or via the SG eInvoicing Solution, which can go again direct to PECOS P2P or a Contracting Authority's finance system.

10.11A The Service Provider when providing catalogue data or punch-out solution is required to maintain price and product data in accordance with that agreed in the Framework, including any updates.

10.12A The Service Provider is required to work with the Authority and the Framework Public Bodies in the promotion of process efficiencies.

10.13A Due to the nature of this collaborative procurement, Framework Public Bodies are at different stages of automation. Accordingly, the Service Provider must be able to provide 'traditional' forms of communication, such as, orders via telephone and facsimile, paper timesheets and invoices.

10.14A Scottish Ministers (through the eCommerce Shared Service) have introduced and are aspiring to reach a level of 100% eInvoicing. The Service Provider will work with the Authority and Framework Public Bodies in the implementation and rollout of eInvoicing during the lifetime of the Framework Agreement.

10.15A Should any framework public body look to implement any of these e-commerce systems, the Service Provider commits to work with the Framework public body and the Authority to determine the feasibility of interoperating with these e-commerce systems.

11. Business Continuity & Disaster Recovery

11.1 The Service Provider shall have robust and tested Business Continuity and Disaster Recovery plans, policies and procedures in place in respect to services delivered under this Framework Agreement and call-off contracts. These plans and procedures must be auditable and available upon request by the Authority and/or Framework Public Bodies.

11.2 Further details of the Business Continuity and Disaster Recovery requirements can be found within Schedule 11 – Business Continuity and Disaster Recovery of the Terms of Supply (Schedule 5 of the Framework Terms).

11.3 A draft of the Business Continuity and Disaster Recovery Plan shall be produced by the Service Provider and supplied to the Authority within six (6) weeks of the Framework Award date.

12. Exit Management

12.1 The Service Provider will ensure an efficient migration of the Services to the Framework Public Bodies or other Service Providers in accordance with the Exit Provisions of the Framework Terms and Conditions

12.2 If Framework Public Bodies decide to terminate their call-off contract, or part of their service, with the Service Provider, the Service Provider shall work with the Framework Public Bodies to determine a suitable exit plan in accordance with clause 44 and Schedule 8 of the Framework agreement and Clause 59 and Schedule 10 of the Terms of Supply (Schedule 5 of the Framework Terms).

12.3 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Authority within three (3) months of the Framework Award Date and shall include or address the matters specified in Clause 44 of the Framework Terms and Conditions.

13. Not Used.

14. Environmental Standards

14.1 The Service Provider will be required to demonstrate that waste generated in relation to the Mobile Voice & Data Services framework is managed in accordance with the waste hierarchy, supporting the transition to a Circular Economy, while ensuring compliance with all relevant Waste Regulations.

14.2 Where the disposal of recycling of redundant components or equipment is undertaken by the Service Provider or the Service Provider's sub-contractor or agent it will be the Service Provider's responsibility to ensure that the WEEE Regulations 2013 (Waste Electronic and Electrical Equipment) have been adhered to for which further guidance can be found [here](#).

14.3 The Service Provider will be required to maintain a standard of environmental protection, including, certification to ISO 14001/EMAS or equivalent standards, relevant to the delivery of this Framework Agreement. They will also be expected to support carbon reporting to assist Framework Public Bodies in meeting their environmental targets. All products should meet or exceed the minimum environmental standards detailed in the minimum specification for each device.

15. Community Benefits

15.1 The potential to take in to account social considerations (also referred to as Community Benefits) in public procurement is firmly established and set out in European Directive 2014/24/EU, the Public Contracts (Scotland) Regulations 2015 ("the Regulations") and European case law.

15.2 The Authority is interested in measures that the Service Provider proposes to take to encourage:

- The targeted recruitment and training of the long-term unemployed and those further from the job market (by way of apprenticeships, work placements etc.);
- Educational benefits to communities, including working closely with educational establishments and community groups to maximise educational opportunities that arise through performance of the agreement, increase awareness, skills and digital accessibility;
- Awareness of opportunities, either in a prime or a sub-contracting role, for small to medium (SME) sized businesses and social enterprises.

16. Social & Ethical Responsibility

- 16.1 The Authority has included obligations within the framework conditions relating to ethical working conditions and labour standards, which are relevant to the products/services to be delivered. These obligations reflect Scotland's commitment to economic, social and human rights as reflected in the International Labour Organisation (ILO) core conventions, the International Covenant on Economic, Social and Cultural Rights (ICESR), Scotland's National Action Plan for Human Rights (SNAP), the UN Sustainable Development Goals (SDGs) and the Human Trafficking and Exploitation (Scotland) Act 2015.
- 16.2 The Service Provider will perform its obligations in accordance with the Authority's, and Framework Public Bodies' ethical sourcing policies, which require appropriate standards regarding economic, social and human rights, with a strategic aim to improve working conditions and prevent worker exploitation within the supply-chain.
- 16.3 The Service Provider must take all reasonable steps to ensure that all Goods supplied under this Framework Agreement are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin, in particular, in relation to labour standards, working conditions and the use of child labour.
- 16.4 The Service Provider will to have a comprehensive system which demonstrates an on-going and systematic approach to identifying and managing risks relating to labour standards, working conditions and use of child labour in the supply chains relevant to the Framework Agreement.
- 16.5 This should include policy, roles and responsibilities, objectives, targets and programmes, training and awareness, communications, documentation and procedures, supply chain management, emergency response, monitoring and reporting (including identification of all suppliers, changes made and audits undertaken in accordance with appropriate standards e.g. ETI Base Code, SEDEX, or equivalent), corrective action and review. The Service Provider will be required to demonstrate continual improvement in working conditions and labour standards, while enhancing policies and systems and, where relevant, work with the Authority during the term of the Framework Agreement to ensure compliance with new and emerging legislation.

17 Security of Supply

- 17.1 The Service Provider will maintain security of supply through appropriate and robust management of supply chain risks, which are reasonably within their control, and which may arise due to availability of components, environmental, social or other relevant factors.
- 17.2 The Service Provider will work with the Authority, to map the full end-to-end supply chain and identify and prioritise supply chain initiatives throughout the life of the framework agreement.

18 Conflict Minerals

- 18.1 It is recognised that there are concerns regarding the use of 'conflict minerals' within electronics products, which are mined in conditions of armed conflict and human rights abuses, and which are sold or traded by armed groups. The US introduced the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010 which focuses on certain minerals arising from the Democratic Republic of Congo (DRC) and applies only to US listed companies. In 2017 the EU adopted the conflict minerals regulations (<http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/legal-texts-and-documents/>) which obliges EU companies to source their imports of tin, tantalum, tungsten and gold responsibly and to ensure that their supply chains do not contribute to funding armed conflict. These 'due diligence' rules will become binding from 1 January 2021, though importers are encouraged to apply them as soon as possible

18.2 Throughout the term of the Framework Agreement, the Contractor will be required to demonstrate how they assess the likelihood of conflict minerals within products, and what measures they have undertaken to minimise and eliminate, where practical, such minerals. The Contractor will be required to comply with any existing, new and emerging legislation and/or self-certification system.

19. Coverage

- 19.1 Framework Public Bodies operate geographically diverse estates and require mobile network coverage that support the delivery of services to the citizen and throughout the organisation in an increasingly digital workplace. The Service Provider must be able to meet the coverage demands of the Framework Public Bodies where available.
- 19.2 The Service provider must have the ability to provide coverage for both in and out of buildings.
- 19.3 The Service Provider must identify the level of coverage they provide against the postcodes detailed at Annex A of this Schedule 1. Where there is a lack of coverage in an area the Service Provider will identify this, suggest network coverage solutions and provide a development plan.
- 19.4 Prior to implementation of the service for Framework Public Bodies, the Service Provider will survey each Framework Public Bodies main or suggested location of operation and provide a report on the coverage in that location which will detail the level of voice and data service achievable.
- 19.5 Pricing will be in accordance with Schedule 2 – Pricing Schedule.
- 19.6 In an area where coverage is determined as not fit for purpose, the Framework Public Bodies are able to;
- Cancel without charge any affected connections;
 - not migrate any affected connections.

20. Service Levels

- 20.1 The Service Provider will perform and deliver the Services in accordance with the minimum Service Levels detailed within this specification.
- 20.2 The objectives of the Service Levels are to ensure that the Services are of a consistently high quality and meet the requirements of Framework Public Bodies. Service Providers will be required to provide effective support and maintenance services for all services deployed across the geography of Scotland as per the Service Levels detailed within section 20.4 of this Statement of Requirements
- 20.3 The Services Levels and Key Performance Indicators (KPIs) stated below will be measured and reported through the quarterly management information process which is described in the Framework Terms and Conditions, Schedule 4 – Management Arrangements, and also as required and agreed between each Framework Public Body and the Service Provider.
- 20.4 The Framework Services Levels below are applicable to both the Framework and any call-off contracts awarded from the Framework.

Ref.	Description of Service Performance Measure	Target
1	Account Management Service to provide acknowledgement of routine Customer enquiry/issue submitted via telephone, email or online portal	1 Working day

2	Account Management Service to provide acknowledgement of urgent/priority Customer enquiry/issue submitted via telephone, email or online portal. The Customer will agree with the Service Provider at the beginning of the Contract the definition of urgent/priority but this is intended to apply in the minority of instances such as severe or widespread disruption or disruption to a key/critical member of the Customer's staff	3 hours
3	Where the Customer has telephoned the Service Providers account management service to report a lost or stolen device the Service Providers account management service will apply a bar to the connection immediately and provide confirmation of the bar being applied to the lost Device.	1 Hour
4	Service Provider to deliver in-stock new Device (Including replacement and substitute Devices) to Customer in accordance with the following service level: Informed prior to 12.00 Noon: the next working day;	1 Working Day
5	Service Provider to deliver in-stock new Device (Including replacement and substitute Devices) to Customer in accordance with the following service level: Informed after 12.00 Noon: by the end of the second working day after notification.	2 Working Day
6	Service Provider to provide collection / return of faulty device in accordance with the following service level: Informed prior to 12.00 Noon: the next working day;	1 Working Day
7	Service Provider to provide collection / return of faulty device in accordance with the following service level: Informed after 12.00 Noon: by the end of the second working day after notification.	2 Working Day
8	Account Management Service to resolve enquiries/issues (including billing issues). In the event of a complex issue which cannot be fully resolved in 3 days, the Service Provider will agree with the Customer within 3 working days the action and timescales that will be taken to resolve the query.	3 Working Days

20.5 The Key Performance Indicators below are applicable to all Services defined in this Schedule 1 and applicable to the Authority and Framework Public Bodies. Framework public bodies may also include additional KPIs within their call-off contract.

Key Performance Indicators (KPIs)

Reference	Service Level	Measurement	Target
MVD 001	Management Information submitted in the agreed format and within the agreed timescales	Management Information submitted within 10 Working Days following the end of each quarterly period	100%

MVD 002	Benchmarking of Framework Pricing	Evidence provided that Service Provider has undertaken robust and appropriate benchmarking activity which demonstrates the competitiveness of framework and device prices.	100%
MVD 003	Prompt payment of sub-Service Providers	100% payment within 30 calendar days for sub-Service Providers or third party suppliers	100%
MVD 004	Invoices are accurate and presented promptly for payment.	Total number of invoices / number of disputed invoices	95%
MVD 005	Sustainability	Sustainability targets to be agreed with the Service Provider and the Framework Public Body.	Quarterly report
MVD 006	Adherence to resolution times	Total number of incidents responded to within the resolution times set by the Framework public body.	100%
MVD 007	Complaints to be acknowledged within 2 working days, and provide full response.	Total number of complaints acknowledged / total number of complaints received	100%

21. Service Desk Support

21.1 The Service Level Agreement for all services shall be:-

a. between 0800 and 1800, Monday to Friday excluding Scottish Bank Holidays.
(i.e. Standard Business Hours)

21.2 Where Framework Public Bodies require services at weekends, and during Scottish Bank Holidays this will be agreed between the Service Provider and Framework Public Body at the call-off level. The Framework Public Bodies may reasonably request a blend of SLA periods within their call-off contract with the Service Provider due to the different criticality levels of their equipment.

21.3 The Service Provider will provide a service desk which will receive all service requests for service from the Framework Public Bodies.

21.4 The service desk will be available during the SLA time periods (see Section 20.4 above) required by the Framework Public Bodies as detailed in their call off contract.

21.5 The service desk support must include a telephone based technical support helpdesk and should also include a web portal and email based services. The Service Provider must be able to provide a technical support management system, including a ticketing and reporting system.

21.6 The service desk will be Single Point of Contact (SPoC), contactable on a phone number and staffed by employees familiar with this Agreement, the Authority and the Framework Public Bodies.

21.7 The Service Provider shall liaise with the Framework Public Body staff to ensure that incidents are resolved promptly and with a minimum of disruption to existing services or operations and in line with the agreed Service Levels.

22. Malicious Software

- 22.1 Any electronic system or equipment used or supplied by the Service Provider shall be virus checked, and certified as virus free by the Service Provider and in accordance with condition 27A of Schedule 5 (Standard Terms of Supply).

23. Information Security Management System (ISMS) and Cyber Resilience

- 23.1 Service Providers should be certified to ISO/IEC 27001:2013 or equivalent and comply with the principles of ISO 27002 or equivalent. The certification should cover the scope of all activity undertaken as part of this framework agreement.
- 23.2 The Service Provider must ensure that they hold Cyber Essentials accreditation or equivalent, or commit to obtain this within the first year of the framework.

24. Escalation

- 24.1 The Service Provider shall register and record all complaints received in connection with the operation of the Framework Agreement.
- 24.2 The Service Provider must acknowledge all complaints within 2 Working Days and advise the Authority of all complaints received within 5 days of receipt. The Service Provider shall, within 2 Working Days of acknowledging receipt of a complaint, provide a full response or action plan detailing how the complaint will be resolved and the expected resolution date.
- 24.3 First line management of operational issues shall be undertaken between the Framework Public Body and their Account Manager. A clear issue management and escalation process shall be established by the Service Provider in consultation with the Authority. Any complaints and issues will be logged by the Service Provider. An 'issue' is defined as a failure to meet the requirements outlined in this Statement of Requirements. A 'complaint' is defined as a formal escalation in writing to the Service Provider.

25. Disputes

- 25.1 In the case of any dispute between a Framework Public Body and Service Provider, the Service Provider must continue to provide the Services in accordance with the Service Levels and KPIs detailed in this Schedule 1, unless the Service Provider's appointment to provide Services to Framework Public Bodies has been suspended or terminated by the Authority.
- 25.2 The dispute resolution procedure is in accordance with clause 37 of the framework terms.

26. Management Information

- 26.1 The Service Provider will be required to produce management information in relation to the overall performance of the framework, including transactional data. This information will be provided to the Authority every 3 months (unless otherwise stated), 10 Working Days after the previous quarter end (i.e. April-June, July-September, October-December, January-March). The reports will provide a sufficient level of detail so as to enable Scottish Procurement to understand how each Framework Public Body is using the Mobile Voice and Data Services Framework. The information will also be made available to the individual Framework Public Body as required. The list below will be required, as a minimum

- Framework Name
- Contract Ref
- Account Manager
- Scope
- Organisation

- Key Contact Name
- Key contact email
- Key contact phone numbers
- Contract term
- Contract start date
- Contract end date
- Total Contract Value
- Previous Contract Spend
- Estimated annual savings (%)
- Sub-contractors Information (including, name, SME status, spend, location etc)
- Sub-contractors name
- Sub-contractors spend – by each contract
- Performance against service levels for prompt payment of Sub-contractors Providers
- Total spend per quarter
- Customer engagement
- Community benefits
- Economic growth / benefits
- Sustainability
- Balanced score card information

- 26.2 Data and/or information to support the answering of freedom of information (FOI) questions, First Minister Questions (FMQs), Parliamentary Questions (PQs) and Ministerial Correspondence Submission (MCS) will be provided within one Working Day, as and when required by Scottish Procurement or the Framework Public Body.
- 26.3 All information should be provided electronically and will be available in a commonly available format such as MS Excel format. There will be no costs for any management information requirements requested.
- 26.4 The Service Provider must provide comprehensive reports, or reporting tools to allow the Framework Public Bodies to fully understand their use of the Services, devices and products on a monthly (or quarterly basis if required by the Framework public body) capable of being exported to Excel at no additional cost and accessible via an online portal. This must include as a minimum:
- The account structure and total number of connections assigned to any cost centre or similar structure, with a breakdown by type / tariff
 - All invoiced billing data broken down by the account structure and down to individual connection level
 - A breakdown of usage based on call classification, duration, number of SMS messages and data usage
 - Analysis on usage patterns, including but not limited to, top ten numbers called by value / volume, top 10 users by value, International numbers, premium numbers, 5 digit SMS numbers, zero usage and usage compared with previous months
 - Exception reports where users breached usage volumes
- 26.5 The Service Provider will not unreasonably withhold occasional and reasonable ad-hoc report requests where the Service Provider has existing standard reports which meet the Authority or Framework Public Bodies requirement. The Authority or Framework Public Body cannot raise more than one ad-hoc report per month unless otherwise agreed.
- 26.6 The Service Provider will also be required to provide routine management information reports to the Authority. Reports are to be provided on a quarterly basis (i.e. April-June, July-September, October-December, January-March), no later than 10 Working Days following the end of each quarter.

- 26.7 The Service Provider shall provide management information reports in an electronic format (or online) using Word, Excel or other format as agreed by the Authority. The format and content of the required Management Information will be agreed between Scottish Procurement and Service Provider. Reports will include but not be limited to the following information:-
- Monthly and cumulative spend totals by customer
 - Performance against Service Performance Measures
 - Risk report
 - Summary of continuous improvement in performance
 - Sustainability/community benefit outcomes planned and delivered
- 26.8 The Service Provider's performance will be assessed by the Authority and/or the Framework Public Body which may include use of a balanced scorecard to assess quality, service, delivery and cost.
- 26.9 If required, the Service Provider will complete a balanced scorecard for submission to the Authority and/or the Framework Public Body on a quarterly basis.
- 26.10 The Authority and/or the Framework Public Body will work with the Service Provider to address all issues identified through the application of the Balanced Scorecard. Meetings may be required to supplement this process.
- 26.11 All costs associated with the provision of management information shall be the responsibility of the Service Provider.

27. Pricing, payment, billing and invoicing

- 27.1 The service provider must be able to provide the following;
- a) The ability to provide Framework Public Bodies and any subsidiaries, real time mobile billing and reporting where this is available.
 - b) The Service Provider systems should allow for Monthly or Quarterly billing these options should be available at a subsidiary level. Whatever option is selected it should not impact any other subsidiary or at account level.
 - c) Framework Public Bodies and any subsidiaries should be able monitor any numbers, group of numbers, current and any historical billing, this should be available for the duration of the call off contract or for 3 financial years. A full electronic record should be provided when the contract ends. Access level permissions should be at :-
 - User, own number data only
 - Subsidiary, all numbers under the Subsidiary
 - All numbers under the Main account
 - d) Reports should be customisable i.e. Subsidiary Name, Cost Centre date range. The Framework Public Body will work with the successful provider to define report requirements.
 - e) Downloadable reports should be available including but not exclusive to Call Charges and Equipment Charges, these reports should be available in both MS Excel and PDF formats
 - f) Permissions should be set at subsidiary level. Only staff from the Framework public body should have full permissions/settings from the Top level down
- 27.2 Pricing, payment, billing and invoicing will be in accordance with Schedule 2 – Pricing Schedule and Schedule 5 – Terms of Supply.

28. Service Innovation

- 28.1 Where applicable, the Service Provider will inform the Authority and Framework Public Bodies when new and emerging technologies, that meet the same specific need, become available during the lifetime of the Framework Agreement.

- 28.2 The Service Provider will inform the Framework Public Bodies of on-going improvement services, which is of benefit to the Framework Public Bodies and the Services being provided under the framework, as part of the Framework Public Bodies and Service Provider review.
- 28.3 During the lifetime of the framework the Service Provider is invited to submit proposals to the Authority on new and emerging technologies as well as new more cost effective tariffs for existing services.

29. Benchmarking, Value for Money and Commercial Innovation

- 29.1 The Service Provider will be required to undertake annual benchmarking activity to demonstrate the competitiveness of prices and quality of service applied to the Framework Agreement and call-off contracts. The Service Provider will be required to report to the Authority, details of the outcomes and findings of all benchmarking activities.
- 29.2 The Service Provider will develop and implement commercial arrangements designed to deliver best value solutions and mitigate price risk for Framework Public Bodies.
- 29.3 The Authority reserves the right to invoke third party benchmarking services at any time.

30. Risk Management

- 30.1 The Service Provider shall, at all times, have in place an appropriate risk management strategy (including a suitable risk management plan) for the delivery and support of services to be provided under the Framework Agreement.
- 30.2 The Service Provider must inform the Authority immediately of any known or foreseeable risks which may have an impact on the operation of the Framework Agreement.

31. Fair Work Practices

- 31.1 The Scottish Government (SG) is persuaded by evidence which shows that the delivery of high quality public services is critically dependent on a workforce that is well-motivated, well led and has appropriate opportunities for training and skills development. SG also expect those who deliver public contracts to adopt fair employment practices for all workers engaged on delivering the contracts. These factors are also important for workforce recruitment and retention, and thus continuity of service. SG itself has adopted workforce policies to meet these requirements.
- 31.2 These policies include:
- a pay policy that includes a commitment to supporting the Living Wage for the duration of this Parliament;
 - fair employment practices;
 - clear managerial responsibility to nurture talent and help individuals fulfil their potential;
 - a strong commitment to Modern Apprenticeships and to the development of Scotland's young workforce;
 - support for learning and development;
 - no inappropriate use of zero hours contracts;
 - no inappropriate use of "umbrella" companies;
 - flexible working;
 - flexi-time; and
 - career breaks.
- 31.3 The SG also attaches importance to ensuring effective consultation and involvement of staff and SG management work in partnership with the Trade Union. While it is, of course, a personal decision whether or not to join a Trade Union, the SG encourages its staff to join an

appropriate Union and to play an active part within it, making sure their views are represented.

- 31.4 Sub-contractors personnel responsible for delivering services on behalf of the Service Provider are unlikely to be solely dedicated to supporting the framework. The Authority will monitor the situation throughout the term of this Framework Agreement and, in order to ensure the highest standards of service quality, we expect the Service Provider and Sub-Service Providers whose workers work alongside those of Framework Public Bodies to take a similarly positive approach to workforce-related matters as part of a fair and equitable employment and reward package.

32. Fraud & Aberrant Usage Avoidance

- 32.1 Framework Public Bodies may want fraud and aberrant usage avoidance services to be in place.
- 32.2 The Service Provider will offer assistance to Framework Public Bodies in detecting fraudulent activities, for example variations in call patterns which may result from lost or stolen equipment.

33. Network congestion and planned maintenance

- 33.1 The Service Provider will have a process and methodology in place for the monitoring of network congestion and avoidance of any disruption to the service. This is to be available for each network utilised in their delivery of services to Framework Public Bodies including, where appropriate, GSM, GPRS, 3G, 4G, 5G and HSDPA. The Service Provider shall provide prior notice of planned maintenance to affected Framework public bodies.

34. Unsolicited calls and unsolicited/erroneous SMS messages

- 34.1 Framework Public Bodies may wish not to receive unsolicited calls and text messages.
- 34.2 The Service Provider will have facilities in place to counter against the receipt of unsolicited calls and text messages.

35. Training

- 35.1 The Service Provider must provide web based training on the use of their portal, this may include refresher training as requested by the Authority and or Framework Public Body's.
- 35.2 The Service Provider must have an electronic portal user guide available online.

**LIST OF POSTCODES FOR COVERAGE IN ACCORDANCE WITH PARAGRAPH 19.3 OF
SCHEDULE 1**

AB10 1SH	EH1 3YT	IV51 9NA
AB11 6BT	EH2 4DJ	KA1 2PY
AB11 6GQ	EH6 6QQ	KA7 1EZ
AB38 7AE	EH11 3LN	KW1 5LB
AB42 2YY	EH11 4DX	KW5 6DX
AB42 1DJ	EH12 5HD	KW14 7UJ
AB43 9AQ	EH12 7TF	KW14 8AP
AB10 1SH	EH30 9NZ	KW15 1AQ
DD1 1NB,	EH33 2JX	KW15 1LX
DD1 2HS	EH49 6BB	KY1 1EX
DD1 4NY	EH49 6SD	KY6 2RA
DD2 4TF	EH51 0EP	KY8 1HL
DD2 5HL	EH51 9LR	KY11 2EA
DD3 8PL	EH55 8QA	KY11 8DY
DD4 0ND	EH99 1SP	KY11 8PE
DD5 3AG	FK2 0AB	KY15 7RU
DD5 4AE	FK7 9JQ	ML3 6BU
DD7 7EN	FK9 5NU	ML7 4LE
DD8 1AN	FK10 3AD	ML12 6RH
DD8 4BS	G1 5LB	PA1 1BF
DD9 6AX	G4 0HF	PA16 9AJ
DD11 3TP	G33 2QX	PA28 6AB
DD10 8QW	G64 2QB	PA28 6BU
DG1 1EA	HS1 2DR	PA31 8QX
DG1 4AP	HS1 2QN	PA32 8XQ
DG1 4EZ	HS1 2XX	PA34 4AE
DG1 4GW	IV1 1DF	PH2 8AT
DG2 9AX	IV1 1PL	PH21 1LU
DG7 1LZ	IV2 3HH	PH41 4QB
DG9 7RF	IV3 8NW	TD6 9DF
DG11 2EU	IV30 1QL	TD7 5EB
EH1 1LB	IV32 7QQ	TD14 5TP
EH1 1SX	IV32 7QP	ZE1 0LL
EH1 3YY	IV51 9DH	ZE1 0HA
		ZE1 0HX

This and the following 72 pages comprise Schedule 1b to the Framework Agreement between the Scottish Ministers and Vodafone Ltd

SCHEDULE 1b – SERVICE PROVIDER SOLUTION

REDACTED

This and the following [7] pages comprise Schedule 2 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 2 - PRICING SCHEDULE

1. Framework Pricing
 - 1.1. All prices are in pounds Sterling (£) exclusive of VAT.
 - 1.2. The prices are inclusive of all the requirements in Framework Agreement and supporting Schedules.
 - 1.3. Prices will not be increased during the first twenty four (24) months of the Framework Agreement, but may be reduced by the agreement of both Parties.
 - 1.4. The Service Provider may request a variation in the (maximum) Price with effect from end of the initial Framework period (two-years). Any request for a variation in Price must be submitted to the Authority for consideration three (3) months prior to the end of the initial Framework Agreement year.
 - 1.5. The Service Provider may request a variation in the Price by submitting to the Authority the Prices it wishes to review together with written evidence of the justification for any requested increase, including evidence that the Service Provider has attempted to mitigate against the increase in the relevant cost components.
 - 1.6. The Authority may at its discretion agree to a Price variation. Any increase in the Price agreed by the Authority shall not exceed the percentage change in the Office of National Statistics' Consumer Prices Index (CPI) (or another such index as may be specified) during the preceding 12 months or other agreed period.
 - 1.7. Notwithstanding, the provisions of clause 1.6 above, the Authority may at its sole discretion decide that any Price variation may exceed any CPI increase where in the Authority's reasonable opinion such Price increase is justified in accordance with clause 1.5 above.
 - 1.8. The Service Provider will be required to undertake annual benchmarking activity to demonstrate the competitiveness of prices and quality of service applied to the Framework Agreement and call-off contracts. The Service Provider will be required to report to the Authority, details of the outcomes and findings of all benchmarking activities. The Authority reserves the right to benchmark, or commission 3rd party benchmarking of the Service Provider's prices at any time in order to determine that they still represent best value for money for Framework Public Bodies.

TARIFFS

SHORT MESSAGE SERVICE (SMS)

Tariff Description	Firm Price per message EX VAT
Premium Rate SMS	REDACTED
International SMS (Originating & Terminating North America)	REDACTED
International SMS (Originating & Terminating Rest of World)	REDACTED
MMS/ Photo Messaging	REDACTED

VOICE AND SMS BOLT-ON

Tariff Description (Voice and SMS)	Firm Price per month EX VAT
Voice & SMS Inclusive Bolt-on	REDACTED
Voice & SMS Inclusive Bolt-on (including £50 equipment credit)	REDACTED

DATA BOLT-ON

Tariff Description (Data bolt-ons)	Firm Price per month EX VAT
Data 1 GB Bolt-On	REDACTED
Data 3 GB Bolt-On	REDACTED
Data 5 GB Bolt-On	REDACTED
Data 10 GB Bolt-On	REDACTED
Data 20 GB Bolt-On	REDACTED
Data 40 GB Bolt-On	REDACTED
Data 1 GB Bolt-On (including £50 equipment credit)	REDACTED
Data 3 GB Bolt-On (including £50 equipment credit)	REDACTED
Data 5 GB Bolt-On (including £50 equipment credit)	REDACTED
Data 10 GB Bolt-On (including £50 equipment credit)	REDACTED
Data 20 GB Bolt-On (including £50 equipment credit)	REDACTED
Data 40 GB Bolt-On (including £50 equipment credit)	REDACTED

MOBILE DEVICE MANAGEMENT - VODAFONE SECURE DEVICE MANAGER (VSDM)

Range of user devices	Firm monthly licence price, per user, EX VAT
1 to 1000	REDACTED
1001 to 2500	REDACTED
2501 to 5000	REDACTED
5001+	REDACTED

MANAGED SERVICE

Table A – Managed Service resource will be provided off site (this may be at the tenderers premises or another specified location)	Maximum Price per month, EX VAT	The Service Provider must have the ability to price the requested service on a per connection basis
Tier 1 services will include one named Service Provider resource working to multiple organisations.	REDACTED	Priced on Application
Tier 2 services will include one dedicated Service Provider resource working to a single organisation.	REDACTED	Priced on Application
Tier 3 services will include two dedicated Service Provider resources working to a single organisation.	REDACTED	Priced on Application
Framework Public Bodies have the option to agree alternative managed service provision with the Service Provider during the call off process.	Priced on Application	Priced on Application

Table B – Managed Service resource will be provided on site at framework public bodies premises	Maximum Price per month, EX VAT	The Service Provider must have the ability to price the requested service on a per connection basis
Tier 1 services will include one named Service Provider resource working to multiple organisations.	REDACTED	Priced on Application
Tier 2 services will include one dedicated Service Provider resource working to a single organisation.	REDACTED	Priced on Application
Tier 3 services will include two dedicated Service Provider resource working to a single organisation.	REDACTED	Priced on Application
Framework Public Bodies have the option to agree alternative managed service provision with the Service Provider during the call off process.	Priced on Application	Priced on Application

DEVICE AND DISPOSAL MANAGEMENT

Description	Firm Price per device, EX VAT
Device data cleansing/wiping service	REDACTED

DEVICE INSURANCE - FULL INSURANCE

Type of Device	Maximum price per Month per device, EX VAT
Standard Phone	REDACTED
Smartphone	REDACTED
5G enabled Smartphone	REDACTED

Tablet	REDACTED
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DEVICE INSURANCE – ACCIDENTAL DAMAGE COVER

Type of Device	Maximum price per Month per device, EX VAT
Standard Phone	REDACTED
Smartphone	REDACTED
5G enabled Smartphone	REDACTED
Tablet	REDACTED

SHARED DATA (LICENSED)

Amount of Data	Firm price per Month, EX VAT
150 GB	REDACTED
250 GB	REDACTED
325 GB	REDACTED
400 GB	REDACTED
500 GB	REDACTED
750 GB	REDACTED
1 TB	REDACTED
2 TB	REDACTED
3 TB	REDACTED
4 TB	REDACTED
5 TB	REDACTED
	Firm price per User, per month, EX VAT
Licence Cost	REDACTED

AGGREGATED DATA

Amount of Data	Firm price per Month, EX VAT
150 GB	REDACTED
250 GB	REDACTED
325 GB	REDACTED
400 GB	REDACTED
500 GB	REDACTED
750 GB	REDACTED
1 TB	REDACTED
2 TB	REDACTED
3 TB	REDACTED
4 TB	REDACTED
5 TB	REDACTED

INTERNATIONAL VOICE, SMS & DATA BOLT-ON

Description	Firm Price per day EX VAT	Firm Price per month EX VAT
International Voice, SMS & 1GB Data Bolt-On (North America)	REDACTED	REDACTED
International Voice, SMS & 3GB Data Bolt-On (North America)	REDACTED	REDACTED
International Voice, SMS & 5GB Data Bolt-On (North America)	REDACTED	REDACTED
International Voice, SMS & 10GB Data Bolt-On (North America)	REDACTED	REDACTED
International Voice, SMS & 20GB Data Bolt-On (North America)	REDACTED	REDACTED
International Voice, SMS & 40GB Data Bolt-On (North America)	REDACTED	REDACTED
	REDACTED	REDACTED
International Voice, SMS & 1GB Data Bolt-On (Rest of World)	REDACTED	REDACTED
International Voice, SMS & 3GB Data Bolt-On (Rest of World)	REDACTED	REDACTED
International Voice, SMS & 5GB Data Bolt-On (Rest of World)	REDACTED	REDACTED
International Voice, SMS & 10GB Data Bolt-On (Rest of World)	REDACTED	REDACTED
International Voice, SMS & 20GB Data Bolt-On (Rest of World)	REDACTED	REDACTED
International Voice, SMS & 40GB Data Bolt-On (Rest of World)	REDACTED	REDACTED

INTERNATIONAL VOICE & SMS BOLT-ON

International Voice & SMS	Firm Price per day EX VAT	Firm Price per month EX VAT
International Voice & SMS Bolt-On (North America)	REDACTED	REDACTED
International Voice & SMS Bolt-On (Rest of World)	REDACTED	REDACTED

INTERNATIONAL DATA ROAMING BOLT-ON

Description	Firm Price per day EX VAT	Firm Price per month EX VAT
International 1GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
International 3GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
International 5GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
International 10GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
International 20GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
International 40GB Data Roaming Bolt-On (North America)	REDACTED	REDACTED
	REDACTED	REDACTED
International 1GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED
International 3GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED
International 5GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED
International 10GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED

International 20GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED
International 40GB Data Roaming Bolt-On (Rest of World)	REDACTED	REDACTED

PROVISION OF THE ABILITY FOR USERS TO TAKE THEIR UK VOICE, SMS AND DATA BOLT-ONS AND USE THEM OVERSEAS

Description	Firm Price per day EX VAT
Ability to use UK Voice, SMS and Data bolt-ons in North America	REDACTED
Ability to use UK Voice, SMS and Data bolt-ons in Rest of World	REDACTED

5G DATA SERVICES

Description	Maximum Price per month, EX VAT
5G Data - 5 GB Bolt-On	REDACTED
5G Data - 10 GB Bolt-On	REDACTED
5G Data - 20 GB Bolt-On	REDACTED
5G Data - 40 GB Bolt-On	REDACTED
Unlimited 5G Data Bolt-On	REDACTED
5G Data - 5 GB Bolt-On (including £50 equipment credit)	REDACTED
5G Data - 10 GB Bolt-On (including £50 equipment credit)	REDACTED
5G Data - 20 GB Bolt-On (including £50 equipment credit)	REDACTED
5G Data - 40 GB Bolt-On (including £50 equipment credit)	REDACTED
Unlimited 5G Data Bolt-On (including £50 equipment credit)	REDACTED

LONE WORKING SERVICE

Description	Range of users	Firm Price, per user, per month EX VAT
Lone Working Service - Code 5 Companion Service	1 to 100	REDACTED
	101 to 250	REDACTED
	251 to 500	REDACTED
	501+	REDACTED
Lone Working Service - Code 5 1100 GPS Device	1 to 100	REDACTED
	101 to 250	REDACTED
	251 to 500	REDACTED
	501+	REDACTED

REMOTE WORKING SERVICE

Description	Firm Price per month EX VAT
Remote Working Services	Priced on Application

CONVERGED MOBILE SERVICES

Description	Firm Price per month EX VAT
Provision of Converged Mobile Services	Priced on Application

PROFESSIONAL SERVICES

Description	Firm Price per month EX VAT
Provision of Professional Services	Priced on Application

MOBILE INTERNET OF THINGS (IoT) SERVICES

Description	Firm Price per month EX VAT
Provision of Mobile IoT Services	Priced on Application

ACCESS POINT NAME (APN) SERVICES

Description	Firm Price per month EX VAT
Provision of APN Services (including those capable of 4G connectivity)	Priced on Application

BUSINESS MOBILITY APPLICATIONS

Description	Firm Price per month EX VAT
Provision of Business Mobility Apps	Priced on Application

DEVICES & Accessories

Description	
Mobile devices and accessories will be available through the Vodafone Standard Public Sector Catalogue. This catalogue will be updated on a monthly basis and made available to framework public bodies.	Prices in accordance with standard public sector device catalogue

VODAFONE MOBILE TERMINATING ROAMED CALLS

Zone	Receiving Calls
Europe Zone 2	REDACTED
Zone	Receiving Calls
Asia Pacific	REDACTED
USA & Canada	REDACTED
Rest of World Zone 1	REDACTED
Rest of World Zone 2	REDACTED

VODAFONE MOBILE ORIGINATING ROAMED CALLS

Zone	Making calls in Europe and back to the UK	Making Calls from Europe Zone 2 to USA/Canada and Rest of the World
Europe Zone 2	REDACTED	REDACTED
Zone	Making calls in Country and back to the UK	Making Calls to other Country
Asia Pacific	REDACTED	REDACTED
USA & Canada	REDACTED	REDACTED
Rest of World Zone 1	REDACTED	REDACTED
Rest of World Zone 2	REDACTED	REDACTED

VODAFONE NON-GEOGRAPHIC CALLS TARIFF

Non-geographic call charges (1 minute minimum call charge)	Charge per minute
Non-geographic numbers starting 0500	REDACTED
Non-geographic numbers starting 0800, 0808	REDACTED
Non-geographic numbers starting 0870, 0871, 0872, 0843, 0844, 0845	REDACTED
Charity numbers starting 0800 or 0808	REDACTED
Radio – paging services (starting 076)	REDACTED
Personal numbering services (starting 070)	REDACTED
Call forwarding services (e.g. 07744, 07755)	REDACTED

*A service charge also applies to numbers starting 084, 087, 09 or 118, as advertised by the organisation offering the service (such as your bank or travel agent). More information is available at www.ukcalling.info

This and the following 4 pages comprise Schedule 3 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 3 – AWARD PROCEDURES

1. Ordering Procedure

- 1.1. Where a Framework Public Body elects to source Mobile Voice and Data Services under this Framework Agreement it will award those Services in accordance with the procedures described in this Schedule 3 (Award Procedures) and the requirements and guidance defined in the Buyers' Guide.
- 1.2. Framework Public Bodies will be able to access the Framework Agreement by a Direct Call Off Contract with the Framework Service Provider. The process which will be followed is detailed below in section 2.
- 1.3. All contracts awarded under the Framework Agreement will be drawn up using the standard terms and condition for call-off contracts contained in Schedule 5 (Standard Terms of Supply). This will be amended to reflect the individual Framework Public Body, Prices, reference numbers, dates, etc. Specific requirements or variations will be recorded in the supporting Schedules, which may include details captured in the Requirements Template (see section 6 below).

Direct Call Off Contract Award

- 2.1 The Framework Public Body may place an Order with the Framework Service Provider in accordance with the instructions outlined in the Ordering Procedures and Requirements Template (see sections 3 & 6 below) and in line with the Standard Terms of Supply.
- 2.2 The following guidance outlines the process to be followed and information which should be included when placing a call off contract under the terms of this Framework Agreement.
- 2.3 The Framework Public Body will detail their requirements in a Specification and complete the Requirements Template (at section 6 below) providing the information necessary to enable the Framework Service Provider to respond. This information must be provided to the Framework Service Provider in order to obtain a quotation for the required services.
- 2.4 The Framework Public Body will be required to produce a written Specification for issue to Framework Service Provider outlining the required services.
- 2.5 The documentation required to be contained in each direct call off will contain the following information
 - Date and time for return of quotation
 - Framework Public Body contact details
 - Proposed contract commencement date
 - Proposed duration or end date
 - Coverage postcodes for assessment
 - Written Specification
 - Required Service Levels, Resolution Times, KPI performance measures and service level credits.
 - Any variations to Schedule 5 Standard Terms of Supply e.g. Invoicing and Insurance Level
 - Cyber requirements in accordance with Schedule 13

Call-off documentation may also provide further information and details of proposed text to populate the schedules contained within the Standard terms of Supply.

- 2.6 The Framework Public Body will invite the Framework Service Provider to quote for the required services by issuing the Requirements Template and their Specification.
- 2.7 The Framework Public Body will set a time limit for the receipt of the quotation, taking into account the complexity of the requirements, and keep the response received confidential until the expiry of the time limit.
- 2.8 The Framework Public Body will review the response and quotation submitted by the Framework Service Provider.
- 2.9 The Framework Public Body will not be obliged to award any Call-off Contract.

3. General

- 3.1 The Service Provider must have an appropriate structure and process in place to manage orders by Direct Call Off Award initiated by Framework Public Bodies.
- 3.2 The Service Provider will be able to accept Direct Call Off Orders in electronic, paper or any other format as agreed between the Authority, Framework Public Body and Service Provider. (Example Requirement Templates have been provided in Section 6)
- 3.3 The Framework Public Body will be required to provide an Order that refers to the Framework and details the Framework Public Body's reference number. The Service Provider will include the Framework Public Body's reference number on all correspondence associated with that piece of work.
- 3.4 The Service Provider will acknowledge the Direct Call Off Orders received within 2 working days. The Service Provider must be able to provide this in electronic and paper format.
- 3.5 It is the responsibility of the Service Provider to ensure that all Services are supplied in accordance with the requirements of the Framework Public Body.

4. eCommerce

- 4.1 The effective use of technology is at the heart of procurement reform and the Authority is leading a number of core initiatives to ensure that public procurement delivers value for money and contributes to the Scottish economy.
- 4.2 The Framework Service Provider will be able to make use of and support a range of eCommerce technologies, including but not limited to:
 - Sourcing & Advertising - The Public Contracts Scotland portal is used across the Scottish public sector and all public sector Framework Public Bodies are encouraged to use the portal as both a sourcing tool and as a repository where they advertise all contract opportunities.
 - Tendering & Evaluation - The Public Contracts Scotland – Tender system provides staff involved with the procurement of goods, services or works with a set of web-based collaborative procurement tools with which they can communicate securely with both Service Providers and stakeholders. The system allows a buying organisation to conduct its tendering (and subsequent evaluations) electronically
 - Payment - a number of finance systems are used across the Scottish public sector, and when interfaced with PECOS or through their own integrated eOrdering systems, they provide Framework Public Bodies with a full Purchase to Pay (P2P) solution. Many systems also include functionality to receive and match invoices electronically (i.e. e-Invoicing), manage low-value/high-volume transactions through Purchasing Cards (e.g. VISA Government Procurement Card), consolidate multiple purchase orders into a single invoice and even remove the need for an invoice through self-billing on receipt of an approved purchase order.

4.3 An overview of Framework Service Providers' eCommerce capability will be included within the Buyer Guide.

5. Insurance & Limits of Liability

5.1 [Insurance levels shall be in accordance with the values set out in Clause 36 of the Framework Agreement and Clause 52 of the Standard Terms of Supply.] The Service Provider may be required to vary i.e. reduce or increase the levels of insurance to meet the specific needs of the Framework Public Body for individual call-offs under the Framework.

6. Requirements Template

6.1 The purpose of the Requirements Template is to provide Framework Public Bodies with a structured format for capturing and defining requirements for their Mobile Voice and Data Services requirements.

6.2 The Requirements Template is optional and can be used to ensure the Framework Service Provider is provided with the relevant information to process an order.

Framework Public Body (Contracting Authority) Details - for Standard Terms of Supply

Contracting Authority:	<Enter organisation name>
Contract Manager :	<Enter name of the Contract Manager>
Contract Manager address:	<Enter the address of the Contract Manager>
Contract Manager contact details:	<Enter the telephone/fax numbers and e-mail address of the Contract Manager>
Invoice address:	<Enter the address for invoices to be sent, if different from the above>
Contract Reference:	<Enter the reference number for the contract, if known>
Final tender response:	<Enter the date and time by which Service Provider responses must be received>

Requirements - for Schedule 1 (Specification & Service Levels)

Service Delivery	<Enter details of the required services> Note: the requirements can be expressed precisely or generally in terms of required outputs.
	<Enter the required commencement date of the Contract>
Implementation, Mobilisation, and Delivery	<Enter details of any key milestones (e.g. completion), including implementation planning, project deliverables, duration, dates, responsibilities, etc. >
Coverage Postcodes	<Enter the postcode locations to be assessed for network coverage>
Key Performance Indicators	<Enter details of Key Performance Indicators>

Information Assurance	<Enter details of any Information Assurance (e.g. Business Impact Levels, Impact Levels, etc.) requirements, where applicable>
Business Continuity & Disaster Recovery Requirements	<Enter details of any Business Continuity & Disaster Recovery Requirements>
Cyber Requirements	<Enter details of any Cyber Security Requirements in accordance with Schedule 13>
Exit Management	<Enter details of any Exit Management requirements>

Estimated Contract Value

Price	<Enter details of the estimated price derived from the agreed pricing schedule>
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Requirements - for additional Schedules and Standard Terms of Supply

Selection and Award Procedure	<Enter details of the procurement process to be followed (e.g. PCS-Tender) and whether an electronic system will be used and, if so, the information required by regulation 21 of the Public Contracts (Scotland) Regulations 2006>
	<Enter details of the award criteria (e.g. cost, quality or service) and the weightings applied in relation to price>
Management Arrangements	<Enter requirements for Key Resource to be specified by the Service Provider where above those specified in the Framework>
	<Enter the requirements for any regular meetings, such as contract and/or performance reviews>
Standard Terms	<Enter details of any specific billing requirements, such as invoice frequency where this is different to clause 13.2, Standard Terms of Supply>
Data Protection	<Enter details of any specific Data Protection requirements above those specified in the Framework>

Service Provider Response - for Standard Terms of Supply

Service Provider:	<Enter Service Provider name>
Contract Manager:	<Enter name of the Contract Manager>
Contract Manager address:	<Enter the address of the Contract Manager>
Contract Manager contact details:	<Enter the telephone/fax numbers and e-mail address of the Contract Manager>
Date of Response:	<Date of the Service Providers response>

Service Provider Response – to Specification & Service Levels Requirements (Schedule 1) and Price

<Services offered>
<Coverage check / response to postcodes>
<Response to which TUPE terms apply to this contract in relation to clause 24 & 26>
<Price>
<Key personnel (if requested by the Contracting Authority)>
<Sub-contractors (if applicable)>

This and the following 2 pages comprise Schedule 4 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 4 – MANAGEMENT ARRANGEMENTS

1 Introduction

- 1.1 The successful delivery of the Framework Agreement will require the Framework Service Provider to develop effective working and strategic relationships with the Authority during the period of the Framework Agreement.
- 1.2 To achieve this, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information (MI), and the sharing of information between all Parties.
- 1.3 This Schedule outlines the general structures and management activities to be applied during the Framework Period, both in terms of the Authority-Service Provider relationship and the Service Provider-Framework Public Body relationship

2. Key Resource

- 2.1 The Service Provider and the Authority will identify and agree a number of Key Roles and Personnel and the Service Provider shall ensure the continuity of Key Personnel throughout the Period of the Framework Agreement.
- 2.2 The Service Provider is expected to identify and allocate a named Framework Account Manager resource for the Framework Agreement.
- 2.3 The role of the Framework Account Manager will be to manage the overall Framework Agreement with the Authority and to ensure any contractual non-conformance is addressed. The Framework Account Manager will be responsible for attending quarterly operational Governance and Review Meetings with the Authority to report on consolidated Management Information and discuss opportunities for continuous improvement. The Framework Account Manager will be responsible for allocating a Single Point of Contact (SPoC) for Framework Public Bodies to support the management and delivery of any individual call-off contract established via the Framework Agreement.
- 2.4 On a mutually agreed basis, the Framework Account Manager (or other appointed named deputy from the Service Provider's organisation) will be required to meet with Framework Public Bodies to ensure their requirements are being met and to demonstrate the Service Provider's ability to maintain, and improve delivery against agreed KPIs.
- 2.5 The Service Provider will be required to provide and maintain an organisation chart which illustrates the Framework Management structure, roles and responsibilities of key personnel and lines of communication, reporting and escalation.

3. Meetings

- 3.1 The Framework Account Manager will be required to attend quarterly and annual Governance and Review meetings with the Authority and separately with Framework Public Bodies as required.
- 3.2 The Framework Account Manager may also be required to attend additional ad-hoc meetings at times and locations specified by the Authority.

- 3.3 The purpose of the Governance and Review Meetings will be to address operational issues such as achievement of Key Performance Indicators (KPIs), utilisation of the Framework Agreement, realisation of savings and benefits, and opportunities to market the Agreement more effectively. These will be attended by the Framework Account Manager and appointed representatives of the Authority and where appropriate specific Framework Public Bodies.
- 3.4 In addition to regular meetings with the Authority, the Service Provider will meet regularly with nominated individuals within each Framework Public Body to review the level of level of service and performance against specific projects.
- 3.5 Where specific problems are identified in relation to the performance of a specific project, the Service Provider will attempt to resolve such problems directly with the nominated individual within the relevant Framework Public Body.
- 3.6 All costs incurred by the Service Provider in attending review meetings will be the responsibility of the Service Provider.

4. Management Information

4.1 The Service Provider will be required to provide routine management information reports to the Authority. Reports are to be provided to the Authority on a quarterly basis (i.e. April-June, July-September, October-December, January-March), no later than 10 Working Days following the end of each quarter.

4.2 The Service Provider shall provide management information reports in an electronic format (or online) using Word, Excel or other format as agreed by the Authority. The format and content of the required Management Information will be agreed between the Authority and Service Provider, Reports will, however, include but not be limited to the following information:

- Framework Name
- Contract Ref
- Account Manager
- Scope
- Organisation
- Key Contact Name
- Key contact email
- Key contact phone numbers
- Contract term
- Contract start date
- Contract end date
- Total Contract Value
- Previous Contract Spend
- Estimated annual savings (%)
- Sub-contractors Information (including, name, SME status, spend, location etc.)
- Sub-contractors name
- Sub-contractors spend – by each contract
- Performance against service levels for prompt payment of Sub-contractors Providers
- Total spend per quarter
- Customer engagement
- Community benefits
- Economic growth / benefits
- Sustainability
- Balanced score card information

- 4.3 In addition to the quarterly management information report, the Service Provider shall produce an Annual Contract review. The Annual Review will contain both narrative and statistical data based on aggregated Management Information.
- 4.4 The Authority may request additional Management Information, and individual Framework Public Bodies may specify alternative or additional Management Information requirements.
- 4.5 Management Information reports must be supplied in a format that allows the Authority and/or Framework Public Body to develop and produce ad-hoc Reports for review.
- 4.6 All costs associated with the provision of management information shall be the responsibility of the Service Provider.

5. Continuous Improvement

- 5.1 The Service Provider will actively seek to improve performance through a policy of continuous improvement applied throughout the period of the Framework Agreement.
- 5.2 The Service Provider's Continuous Improvement strategy will focus on delivering service efficiencies, reductions in whole-life costs and improvements in quality and performance.
- 5.3 The Service Provider shall maintain a record of continuous improvement initiatives and actions implemented, and their outcomes in terms of performance improvement.

6. Framework Performance – Balanced Scorecard

- 6.1 The Service Provider's performance will be assessed using a strategic contract management tool which may include a balanced scorecard to assess quality, service, delivery and cost.
- 6.2 If required the Service Provider will complete a balanced scorecard for submission to the Authority on a quarterly basis.
- 6.3 The Service Provider and Authority will utilise the balanced scorecard to formally monitor and review all aspects of Framework Agreement and Framework Service Provider performance.
- 6.4 The Authority will work with the Service Provider to address all issues and resolve any disputes identified through the application of the Balanced Scorecard.
- 6.5 Poor performance or the failure to rectify persistent issues may lead to the suspension of the Service Provider's appointment to provide Services under the Framework Agreement.

7. Complaints

- 7.1 The Service Provider shall register and record all complaints received in connection with the operation of the Framework Agreement.
- 7.2 The Service Provider must acknowledge all complaints within 2 Working Days and advise the Authority of all complaints received within 24 hours of receipt. The Service Provider shall within 2 Working Days of receipt of a complaint provide a full response or action plan detailing how the complaint will be resolved and the expected resolution date.

This and the following [66] pages comprise Schedule 5 to the Framework Agreement between the Purchaser and Vodafone Ltd

SCHEDULE 5 – STANDARD TERMS OF SUPPLY

SP-19-002

SERVICES CONTRACT

-between-

THE “PURCHASER ACTING THROUGH SCOTTISH PROCUREMENT

-and-

Vodafone Ltd (“the Service Provider”)

-relating to the supply of-

MOBILE VOICE AND DATA SERVICES

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PREAMBLE:

- ONE The Purchaser requires the provision of services;
- TWO On 15 November 2019 the Authority's contract notice relating to the Services was published in the Official Journal of the European Union with reference number 2019/S 221-542232;
- THREE On 18 December 2019 the Service Provider completed its ESPD;
- FOUR On 15 November 2019, the Authority issued its ITT to potential Service Providers (including the Service Provider) in respect of the provision of services;
- FIVE On 18 December 2019, the Service Provider submitted its Tender;
- SIX On the basis of the Tender, the Purchaser has selected the Service Provider to supply the Services under the Contract;
- SEVEN The Contract establishes standard terms of supply for the provision of services;
- EIGHT The Contract also includes:
- a Specification setting out the Services that the Service Provider has undertaken to provide ; including Service Levels setting out particular levels of service that the Service Provider has undertaken to meet;
 - a Pricing Schedule setting out details of the pricing of the Services;
 - details of Key Individuals involved in the provision of the Services;
 - details of approved sub-contractors as at Contract award;
 - details of the Service Provider's information which is deemed to be Service Provider Sensitive Information;
 - Ordering Procedures prescribing the procedures for ordering particular Services; and
 - Management Arrangements for the strategic management of the relationship between the Parties.

SUBSTANTIVE PROVISIONS:

SECTION A: INTRODUCTORY PROVISIONS

1. Definitions and Interpretation

In the Contract, unless the context otherwise requires, the following terms have the meanings given to them below:

“**Assignee**” has the meaning given in clause 32.2 (Assignment).

“**Baseline Personnel Security Standard**” means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

“**Business Continuity Plan**” has the meaning given in paragraph 1.2.1. of Schedule 11 (*Business Continuity and Disaster Recovery*).

“**Commencement Date**” has the meaning given in clause 4.1 (Period).

“**Complaint**” means any grievance made by a Framework Public Body in respect of the Contractor (or any sub-contractor as appropriate) not fulfilling its obligations under the terms of this Agreement or Call-off Contracts.

“**Contract**” means this Contract between the Parties consisting of clauses and 11 Schedules.

“**Contracting Authority**” has the meaning given in regulation 2 of the Public Contracts (Scotland) Regulations 2015;

“**Contractor**” means Contractors legal name and details».

“**Control**” has the meaning given in section 450 of the Corporation Tax Act 2010.

“**Data Controller**”, “**Data Processor**”, “**Data Subject**” and “**Data Subject Access Request**” have the meanings given in the Data Protection Laws.

“**Data Protection Laws**” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR.

“**Default**” means any breach of the obligations of a Party (including material breach) or any negligent act, omission or statement of a Party in connection with or in relation to the Contract.

“**Deliverable**” means anything to be delivered by the Service Provider to the Purchaser and identified as a deliverable in accordance with the Ordering Procedures.

“**Environmental Information Regulations**” means the Environmental Information (Scotland) Regulations 2004 (and any subordinate regulations made under them from time to time or any superseding or amending regulations) together with any guidance and/or codes or practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such regulations.

“**Equipment**” means equipment, plant, tackle, materials and other items supplied and used by the Service Provider’s Representatives in the performance of the Service Provider’s obligations under the Contract.

“**ESPD**” means the European Single Procurement Document completed by the Service Provider and sent to the Authority on 18 December 2019

“**Exit Management**” means the obligations and rights of the Parties to ensure a smooth transition of the Contract from the Service Provider to the Purchaser or any Replacement Service Provider as set out in Clause 59 (Exit Management) and Schedule 10 (Exit Management).

“**Exit Plan**” means the exit management plan developed by the Service Provider and approved by the Purchaser in accordance with Clause 59 (Exit Management).

“**Exit Management Date**” means each of the following:

- (a) the date of a Termination Notice; and
- (b) if no Termination Notice has been served in relation to this Contract except for any Partial Termination, the expiry of the later of the Initial Term and any extension of the Contract agreed in writing.

“**Financial Distress Event**” means the occurrence of one or more of the following events:

- (a) the Service Provider’s or the relevant Key Sub-contractor’s credit or Dun & Bradstreet rating (as applicable) drops one or more levels below the level set out in clause 58A (*Financial Distress*);
- (b) the Service Provider or a Key Sub-contractor issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects;
- (c) there is a public investigation into improper financial accounting and reporting, suspected fraud and/or any other impropriety of the Service Provider or a Key Sub-contractor;
- (d) the Service Provider or a Key Sub-Contractor commits a material breach of covenants to its lenders;
- (e) a Key Sub-Contractor notifies the Purchaser that the Service Provider has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) the commencement of any litigation against the Service Provider or a key Sub-Contractor with respect to financial indebtedness; or
- (g) any financial indebtedness of the Service Provider or a Key Sub-contractor becoming due as a result of an event of default which (in respect of this sub-section (g) only) the Purchaser reasonably believes could materially impact on the continued performance of the Services.

“**Financial Distress Event Remedial Plan**” means a plan provided by the Service Provider in accordance with clause 58A (*Financial Distress*) to remedy the potential adverse impact of the relevant Financial Distress Event on the continued performance of this Contract.

“**FOISA**” means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under this Act from time to time or any superseding or amending enactments or regulations, together with any guidance and/or codes of practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such legislation.

“**Force Majeure**” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action

by that Party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made.

“**GDPR**” means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

“**Good Industry Practice**” means standards, practices, methods and procedures conforming to legal and regulatory requirements and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking as the Service Provider under the same or similar circumstances.

“**Incoming Employees**” means individuals whose employment transfers to the Service Provider on the commencement of the provision of the Services by operation of TUPE.

“**Intellectual Property Rights**” means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“**Judicial Order**” means an ineffectiveness order or an order shortening the duration of the contract made in relation to the Contract under Chapter 6 of the Public Contracts (Scotland) Regulations 2015.

“**Key Individuals**” means the Service Provider Representatives identified as being key individuals for the provision of the Services as set out in Schedule 5.

“**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

“**Management Arrangements**” means the arrangements for the strategic management of the relationship between the Parties, including arrangements for monitoring of the Service Provider’s compliance with the Specification, «F23: the Service Levels», the Ordering Procedures and the terms of the Contract, set out in Schedule 4.

“**Milestone**” means any event or task which must be completed by a particular date, such as the delivery of a Deliverable, identified as a milestone in accordance with the Ordering Procedures.

“**Order**” means an order for particular Services placed in accordance with the Ordering Procedures.

“**Ordering Procedures**” means the procedures for ordering particular Services set out at Schedule 3.

“**Outgoing Employees**” means individuals whose employment transfers from the Service Provider on the ceasing of the provision of the Services by the Service Provider by operation of TUPE. »

“**Party**” means either of the Purchaser or the Service Provider.

“**Personal Data**” has the meaning given in the Data Protection Laws.

“**Pricing Schedule**” means the details of the pricing of the Services «F23:, including provision for Service Credits,» set out in Schedule 2.

“**Processing**” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly.

“**Purchaser**” means the Scottish Ministers acting through < >

“**Purchaser Property**” means any corporeal moveable property issued or made available to the Service Provider by the Purchaser in connection with the Contract.

“**Purchaser Protected Information**” means any information provided by the Purchaser to the Service Provider which:

- carries a protective marking such as “Official”, “Secret” or “Top Secret”; or
- is exempt information as set out in Part 2 of FOISA (disregarding for that purpose whether a provision of Part 2 does not confer absolute exemption within the meaning of section 2(2) of FOISA).

“**Relevant Transfer**” has the meaning given in regulation 2(1) of TUPE.

“**Replacement Service Provider**” means any third party service provider appointed to perform the Services by the Purchaser from time to time.

“**Request for Information**” means a request for information within the meaning of section 8 of FOISA or the Environmental Information Regulations and any attempted or apparent such request.

“**Schedule**” means a schedule annexed to, and forming part of, the Contract.

“**Security Plan**” means the security management system, plan and processes to be developed by the Service Provider (including areas such as policy, staff management, supply chain management, asset management, technical controls and software life cycle management to ISO 27001 or equivalent) in accordance with Paragraph 3 of Schedule 12 (*Security Management*) as updated from time to time in accordance with this Contract.

«F24A: “**Service Credits**” means the service credits payable to the Purchaser by the Service Provider in the event that the Service Levels are not met and identified as service credits in the Pricing Schedule.»

«F25: “**Service Levels**” means the Service Levels identified as such in the Specification.»

“**Service Provider**” means Vodafone Ltd, Vodafone House, The Connection, Newbury, Berkshire RG14 2FN Registered Number 01471587

“**Service Provider Representatives**” means all persons engaged by the Service Provider in the performance of its obligations under the Contract including:

- its employees and workers (including persons employed by a third party but working for and under the control of the Service Provider);

- its agents, Service Providers and carriers; and
- any sub-contractors of the Service Provider (whether approved under clause 34 (Sub-contracting) or otherwise).

“**Service Provider Sensitive Information**” means any information provided by the Service Provider to the Purchaser (disregarding any protective marking or assertion of confidentiality) which:

- «F27: is specified as Service Provider Sensitive Information in Schedule 7 and has not lost its sensitivity according to the justifications and durations set out in that Schedule; and»
- is exempt information pursuant to sections 33(1) or 36, 38 or 39 of FOISA (having regard for that purpose to the public interest there might be in disclosing such information as referred to in section 2(1)(b) of FOISA).

“**Services**” means the Services as are to be supplied by the Service Provider to the Purchaser as set out in the Specification and as may be ordered in accordance with the Ordering Procedures.

“**Specification**” means the Purchaser’s general requirements for the provision of services «F28: , including Service Levels,» set out in Schedule 1.

“**Supervisory Authority**” has the meaning given in Data Protection Laws.

“**Tender**” means the tender submitted by the Service Provider to the Purchaser in response to the ITT dated «F14: date Tender submitted».

“**Transparency Information**” means the Transparency Reports and the content of this Contract.

“**Transparency Reports**” means a report in accordance with Schedule 7 Part 1 (Transparency Reports) containing the contract information as set out in the table for that Part for publication by the Purchaser in the interests of transparency

“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“**Working Day**” means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971.

“**Working Hour**” means an hour between 0900 hours and 1700 hours on a Working Day.

1.2 The interpretation and construction of the Contract is subject to the following provisions:

1.2.1 words importing the singular meaning include, where the context so admits, the plural and vice versa;

1.2.2 words importing the masculine include the feminine and neuter;

1.2.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;

1.2.4 references to any statute, enactment, order, regulation or other similar instrument are construed as a reference to the instrument as amended by any subsequent instrument or re-enacted;

1.2.5 references to any person include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;

1.2.6 reference to “expiry or termination” of the Contract includes the making of a Judicial Order;

1.2.7 the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and

1.2.8 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract.

2. NOT USED

3. Nature of the Contract

3.1 The Contract is a public services contract within the meaning of regulation 2(1) of the Public Contracts (Scotland) Regulations 2015.

3.2 Save to the extent specifically provided for in this Contract, the Service Provider acknowledges that it is not the exclusive Service Provider of the Services to the Purchaser and as such no guarantee of work or volume of work has been granted by the Purchaser.

4. Period

4.1 The period of the Contract is from and including <commencement date> (the “**Commencement Date**”) to and including <initial expiry date>, unless it is terminated earlier or extended under clause 4.2.

4.2 The Purchaser may, by giving notice to the Service Provider, extend the period of the Contract to a date falling no later than expiry date. Subject to that constraint, the Purchaser may extend the period of the Contract on more than one occasion.

5. Break

The Purchaser may terminate the Contract at any time by giving not less than 3 months’ notice to the Service Provider.

6. Specification and Service Levels

The Service Provider must comply with the Specification. In particular, the Service Provider must meet or exceed the Service Levels.

7. Pricing Schedule

7.1 The Pricing Schedule sets out details of the pricing of the Services.

7.2 The prices in the Pricing Schedule are not to be increased for the period of the Contract.

7.3 Accordingly, the Service Provider may not unilaterally increase the prices in the Pricing Schedule. But nothing in the Contract prevents the Service Provider from improving on the prices in the Pricing Schedule for the purposes of a particular Order.

8. Ordering Procedures and Management Arrangements

8.1 The Ordering Procedures may be invoked by the Purchaser at any time during the period of the Contract.

8.2 The Parties must comply with the Ordering Procedures.

- 8.3 The Service Provider must maintain the capacity to supply the Services throughout the period of the Contract.
- 8.4 The Parties must comply with the Management Arrangements.

SECTION B: MISCELLANEOUS PROVISIONS INCLUDING THOSE RELATING TO PRICE, PAYMENT AND INFORMATION

9. Service Provider's Status

At all times during the period the Service Provider is an independent service provider and nothing in the Contract establishes a contract of employment, a relationship of agency or partnership or a joint venture between the Parties or between the Purchaser and any Service Provider Representative. Accordingly, neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

10. Notices

- 10.1 Any notice or other communication which is to be given by a Party to the other under the Contract must be:

10.1.1 given in writing;

10.1.2 addressed in accordance with clause 10.3; and

10.1.3 sent by letter (delivered by hand, first class post or by recorded delivery or special delivery), fax or e-mail.

- 10.2 Provided the relevant communication is not returned or rejected as undelivered, the notice or communication is deemed to have been given:

10.2.1 2 Working Days after the day on which the letter was posted; or

10.2.2 4 Working Hours after the communication was sent, in the case of fax or email.

- 10.3 For the purposes of this clause, the address of each Party is:

10.3.1 For the Purchaser:

«: Purchaser address for notices»

For the attention of: «: Purchaser individual contact for notices»

Tel: «: Purchaser phone number»

Fax: : Purchaser fax number for notices»

E-mail: Purchaser e-mail address for notices»

10.3.2 For the Service Provider:

«F35: Service Provider address for notices»

For the attention of: «F36: Service Provider individual contact for notices»

Tel: «F37: Service Provider phone number»

Fax: «F38: Service Provider fax number for notices»

E-mail: «F39: Service Provider e-mail address for notices»

- 10.4 Either Party may change its address details by serving a notice in accordance with this clause.

10.5 Notices under clause 58 (Termination on Insolvency or Change of Control) may be sent to the Purchaser's trustee, receiver, liquidator or administrator, as appropriate.

11. Price

11.1 In consideration of the Service Provider's performance of its obligations relating to an Order, the Purchaser must pay:

11.1.1 the price due in accordance with the Pricing Schedule and the Ordering Procedures; and

11.1.2 a sum equal to the value added tax chargeable at the prevailing rate.

11.2 The Service Provider must automatically credit the Purchaser with Service Credits in accordance with the Pricing Schedule

11.3 The Service Provider may not suspend the provision of services if it considers that the Purchaser has failed to pay the price due.

12. Payment and Invoicing

12.1 The Purchaser must pay all sums due to the Service Provider within 30 days of receipt of a valid invoice.

12.2 The Service Provider must render invoices : [insert invoicing frequency».]

12.3 The Service Provider must ensure that each invoice contains appropriate Contract and Order references details of any service credits applied and a detailed breakdown of the Services provided. The Service Provider must supply such other documentation reasonably required by the Purchaser to substantiate any invoice.

12.4 Value added tax, where applicable, must be shown separately on all invoices as a strictly net extra charge.

12.5 Where any Service Credits have been credited to the Purchaser they must be applied against the next invoice rendered by the Service Provider. Where no invoice is due or likely to be rendered for a period exceeding 2 months, the Service Provider must promptly issue a credit note and pay the credited sum to the Purchaser within 30 days of issue

12.6 Interest is payable on the late payment of any undisputed sums of money in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. In the case of sums due by the Purchaser, the sums referred to in this clause must be properly invoiced by the Service Provider.

12.7 In this clause 12, 'valid invoice' includes an electronic invoice meeting all the requirements set out in regulation 70A of the Public Contracts (Scotland) Regulations 2015 or regulation 44A of the Concession Contracts (Scotland) Regulations 2016.

12A. Billing

12A.1 Service Providers shall comply with all HMRC guidelines in relation to VAT invoices (<https://www.gov.uk/vat-businesses>).

12A.2 Invoices must include Value Added Tax (VAT) information, Purchase Order numbers and line details of the items being invoiced

12A.3 Service Providers must be able to provide electronic invoices (eInvoicing) and must ensure that no further costs are incurred for the Purchaser a result of adopting eInvoicing. Service Providers shall be required to support all eInvoicing developments and solutions that are introduced by the Scottish Government.

12A.4 Service Providers must be able to accept payment via Purchasing Card, providing a breakdown of VAT at an item line level.

13. Recovery of Sums Due

13.1 Wherever under the Contract any sum of money is recoverable from or payable by the Service Provider to the Purchaser, the Purchaser may deduct that sum from any sum due to the Service Provider whether under the Contract or otherwise.

14. Data Protection

14.1 The Service Provider acknowledges that Personal Data described in the scope of Schedule 9 (Data Protection) may be Processed in connection with the Services under this Contract. For the purposes of any such Processing, Parties agree that the Service Provider acts as the Data Processor and the Purchaser acts as the Data Controller.

14.2 Both Parties agree to negotiate in good faith any such amendments to this Contract that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this clause 14 are without prejudice to any obligations and duties imposed directly on the Service Provider under Data Protection Laws and the Service Provider hereby agrees to comply with those obligations and duties.

14.3 The Service Provider will, in conjunction with the Purchaser and in its own right and in respect of the Services, make all necessary preparations to ensure it will be compliant with Data Protection Laws.

14.4 The Service Provider will provide the Purchaser with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.

14.5 The Service Provider must:

14.5.1 process Personal Data only as necessary in accordance with obligations under the Contract and any written instructions given by the Purchaser (which may be specific or of a general nature), including with regard to transfers of Personal Data outside the European Economic Area unless required to do so by European Union or Member state law or Regulatory Body to which the Service Provider is subject; in which case the Service Provider must, unless prohibited by that law, inform the Purchaser of that legal requirement before processing the Personal Data only to the extent, and in such manner as is necessary for the performance of the Service Provider's obligations under this Contract or as is required by the Law;

14.5.2 subject to clause 14.5.1 only process or otherwise transfer any Personal Data in or to any country outside the European Economic Area with the Purchaser's prior written consent;

14.5.3 take all reasonable steps to ensure the reliability and integrity of any Service Provider Representatives who have access to the Personal Data and ensure that the Service Provider Representatives:

- (a) are aware of and comply with the Service Provider's duties under this clause;
- (b) are subject to appropriate confidentiality undertakings with the Service Provider or the relevant Sub-contractor;
- (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and

- (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

14.5.4 implement appropriate technical and organisational measures including those in accordance with Article 32 of the GDPR to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, such measures being appropriate to the harm which might result from any unauthorised or unlawful Processing accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected.

14.6 The Service Provider shall not engage a sub-contractor to carry out Processing in connection with the Services without prior specific or general written authorisation from the Purchaser. In the case of general written authorisation, the Service Provider must inform the Purchaser of any intended changes concerning the addition or replacement of any other sub-contractor and give the Purchaser an opportunity to object to such changes.

14.7 If the Service Provider engages a sub-contractor for carrying out Processing activities on behalf of the Purchaser, the Service Provider must ensure that same data protection obligations as set out in this Contract are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Service Provider shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.

14.8 The Service Provider must provide to the Purchaser reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the GDPR.

14.9 The Service Provider must notify the Purchaser if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);

- (b) receives a request to rectify, block or erase any Personal Data;

- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws;

- (d) receives any communication from the Supervisory Authority or any other regulatory authority in connection with Personal Data processed under this Contract; or

- (e) 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 or regulatory order;

and such notification must take place as soon as is possible but in any event within 3 business days of receipt of the request or any other period as agreed in writing with the Purchaser from time to time.

14.10 Taking into account the nature of the Processing and the information available, the Service Provider must assist the Purchaser in complying with the Purchaser's obligations concerning the security of personal data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the GDPR. These obligations include:

- (a) ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law

as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events.

- (b) notifying a Personal Data breach to the Purchaser without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;
- (c) assisting the Purchaser with communication of a personal data breach to a Data Subject;
- (d) supporting the Purchaser with preparation of a data protection impact assessment;
- (e) supporting the Purchaser with regard to prior consultation of the Supervisory Authority.

14.11 At the end of the provision of Services relating to processing the Service Provider must, on written instruction of the Purchaser, delete or return to the Purchaser all Personal Data and delete existing copies unless EU or Member State law requires storage of the Personal Data.

14.12 The Service Provider must:

- (a) provide such information as is necessary to enable the Purchaser to satisfy itself of the Service Provider's compliance with this clause 14;
- (b) allow the Purchaser, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to inspect the procedures, measures and records referred to in this clause 14 and contribute as is reasonable to those audits and inspections;
- (c) inform the Purchaser, if in its opinion, an instruction from the Purchaser infringes any obligation under Data Protection Laws.

14.13 The Service Provider must maintain written records including in electronic form, of all Processing activities carried out in performance of the Services or otherwise on behalf of the Purchaser containing the information set out in Article 30(2) of the GDPR.

14.14 If requested, the Service Provider must make such records referred to clause 14.13 available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks.

14.15 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under clause 14.14 with minimum disruption to the Service Provider's day to day business.

14.16 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Purchaser publishes an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Service Provider should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of payment) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

15. Transparency and Freedom of Information

15.1 The Service Provider acknowledges that the Purchaser is subject to the requirements of FOISA and the Environmental Information Regulations. The Service Provider shall:

- (a) provide all necessary assistance and cooperation as the Purchaser may reasonably request to enable the Purchaser to comply with its obligations under FOISA and Environmental Information Regulations;

(b) transfer to the Purchaser all Requests for Information relating to this Agreement that the Service Provider receives as soon as reasonably practicable and in any event within 2 Working Days of receipt;

(c) provide the Purchaser with a copy of all information held on behalf of the Purchaser which is requested in a Request For Information and which is in the Service Provider's possession or control. The information must be provided within 5 Working Days (or such other period as the Purchaser may reasonably specify) in the form that the Purchaser requires.

(d) not respond directly to a Request For Information addressed to the Purchaser unless authorised in writing to do so by the Purchaser.

15.2 If the Request for Information appears to be directed to information held by the Purchaser, the Service Provider must promptly inform the applicant in writing that the Request for Information can be directed to the Purchaser.

15.3 If the Purchaser receives a Request for Information concerning the Framework Agreement, the Purchaser is responsible for determining at its absolute discretion whether the information requested is to be disclosed to the applicant or whether the information requested is exempt from disclosure in accordance with FOISA or the Environmental Information Regulations.

15.4 The Service Provider acknowledges that the Purchaser may, acting in accordance with the Purchaser's Code of Practice on the Discharge of Functions of Public Authorities issued under section 60(5) of FOISA (as may be issued and revised from time to time), be obliged under FOISA or the Environmental Information Regulations to disclose information requested concerning the Service Provider or the Framework Agreement:

15.4.1 in certain circumstances without consulting the Service Provider, or

15.4.2 following consultation with the Service Provider and having taken its views into account.

15.5 Where 15.4.1 applies the Purchaser must take reasonable steps, if reasonably practicable, to give the Service Provider advance notice of the fact of disclosure or, failing that, draw the fact of disclosure to the attention of the Service Provider as soon as reasonably practicable after such disclosure to the extent that it is permissible and reasonably practical for it to do.

15.6 Where a Request for Information concerns Service Provider Sensitive Information specified in Schedule 7 (having regard to the justifications and durations set out there), the Purchaser must take reasonable steps, where practicable, to consult with the Service Provider before disclosing it pursuant to a Request for Information.

15.7 The Service Provider acknowledges that Transparency Reports and the content of this Agreement including any Amendments, agreed from time to time, (together the "Transparency Information") are not Confidential Information. However, for the avoidance of doubt, the following shall be treated as Confidential Information:

(i) any information that the Purchaser determine is exempt from disclosure in accordance with the provisions of FOISA; and

(ii) Commercially Sensitive Information;

and if the Purchaser believes acting reasonably that publication of any element of the Transparency Information should be treated as Confidential Information the Purchaser may, in its discretion exclude such information from publication.

15.8 Notwithstanding any other provision of this Agreement, the Service Provider hereby gives consent for the Purchaser to publish to the general public, the Transparency Information in its

entirety. The Purchaser shall, prior to publication, consult with the Service Provider on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

- 15.9 The Service Provider shall assist and co-operate with the Purchaser to enable the Purchaser to publish the Transparency Information including the preparation of Transparency Reports.
- 15.10 The Purchaser shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Agreement is being performed, having regard to the context of the wider commercial relationship with the Service Provider.
- 15.11 The Service Provider agrees that any further Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Purchaser upon request, unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of FOISA. The Purchaser may disclose such information under FOISA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to clause 17.3.3) publish such Information. The Service Provider shall provide to the Purchaser within 5 working days (or such other period as the Purchaser may reasonably specify) any such Information requested by the Purchaser.

16. Purchaser Protected Information

- 16.1 The Service Provider must:
 - 16.1.1 treat all Purchaser Protected Information as confidential and safeguard it accordingly, implementing appropriate technical and organisational measures to protect Purchaser Protected Information against disclosure;
 - 16.1.2 only use the Purchaser Protected Information for the purposes of performing its obligations under the Contract;
 - 16.1.3 only disclose the Purchaser Protected Information to such Service Provider Representatives that are directly involved in the performance of the Contract and need to know the information; and
 - 16.1.4 not disclose any Purchaser Protected Information without the prior written consent of the Purchaser.
- 16.2 The Service Provider must immediately notify the Purchaser of any breach of security concerning the Purchaser Protected Information. The Service Provider must fully co-operate with the Purchaser in any investigation that the Purchaser considers necessary to undertake as a result of any such breach of security.
- 16.3 Clause 16.1 does not apply to the extent that:
 - 16.3.1 disclosure is required by law or by order of any competent court or tribunal;
 - 16.3.2 information is in the possession of the Service Provider without restriction as to its disclosure prior to its disclosure by the Purchaser;
 - 16.3.3 information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 16.3.4 information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - 16.3.5 information is independently developed without access to the Purchaser Protected Information.

16.4 Breach of this clause or the Official Secrets Acts 1911 to 1989 by the Service Provider is a material breach for the purposes of clause 57 (Termination Rights).

17. Service Provider Sensitive Information

17.1 The Purchaser must:

17.1.1 treat all Service Provider Sensitive Information as confidential and safeguard it accordingly; and

17.1.2 not disclose any Service Provider Sensitive Information to any other person without the prior written consent of the Service Provider.

17.2 Clause 17.1 does not apply to the extent that:

17.2.1 disclosure is required by law or by order of any competent court or tribunal;

17.2.2 information is in the possession of the Purchaser without restriction as to its disclosure prior to its disclosure by the Service Provider;

17.2.3 information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;

17.2.4 information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or

17.2.5 information is independently developed without access to the Service Provider Sensitive Information.

17.3 Nothing in this Contract prevents the Purchaser from disclosing any Service Provider Sensitive Information or any other information concerning the Service Provider or the Contract:

17.3.1 pursuant to a Request for Information concerning the information (provided that any such disclosure shall be made in accordance with clause 15) (Transparency and Freedom of Information);

17.3.2 in accordance with the Purchaser's publication scheme (within the meaning of section 23 of FOISA) as reviewed from time to time;

17.3.3 in accordance with the requirements of Part 3 of the Public Services Reform (Scotland) Act 2010;

17.3.4 in accordance with any future policies of the Purchaser concerning the routine disclosure of government information in the interests of transparency;

17.3.5 to any consultant, Service Provider or other person engaged by the Purchaser, for example to conduct a gateway review;

17.3.6 in response to a Parliamentary Question from a Member of the Scottish Parliament, a member of the United Kingdom Parliament, or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents, and when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Purchaser shall if the Purchaser sees fit disclose such information but is unable to impose any restrictions upon the information that the Purchaser provides to Members of the Scottish Parliament or Members of the United Kingdom Parliament;

17.3.7 in response to any inquiry of the European Commission concerning the Contract; or

17.3.8 for the purpose of any examination by any auditors of the Purchaser (including Audit Scotland, the Auditor General for Scotland and the Scottish Parliament) of the

economy, efficiency and effectiveness with which the Purchaser has used its resources.

- 17.4 The Service Provider consents to the publication of the Contract by the Purchaser, subject to such redactions as the Purchaser may decide to make. The Purchaser may consult with the Service Provider to inform its decisions concerning redaction (for example to exclude any Service Provider Sensitive Information) but any decisions taken by the Purchaser are final and conclusive.

18. Audit and Records Management

- 18.1 In this Clause 18, the following terms have the following meanings:-

The 'Act' means the Public Records (Scotland) Act 2011; and

'Records Management Plan' means the plan prepared by the Purchaser and approved by the Keeper of the Records of Scotland under section 1 of the Act.

- 18.2 The Service Provider must retain and maintain until 5 years after the end of the Contract period full and accurate records of the Contract including the Orders placed, the Services provided and payments made and reimbursed under it.
- 18.3 The Service Provider must on request, and without any charge to the Purchaser, afford the Purchaser, or the Purchaser's representatives, such access to those records as may reasonably be requested by the Purchaser in connection with the Contract.
- 18.4 The Service Provider shall, for the duration of the Contract, provide the Purchaser with all assistance requested by the Purchaser acting reasonably to assist the Purchaser in complying with its obligations under the Act and with the Purchaser's Records Management Plan where such compliance is in respect of records created or to be created by the Service Provider on behalf of the Purchaser in terms of this Contract. This assistance will be at no cost to the Purchaser.
- 18.5 At the end of the Contract, the Service Provider shall transfer the records in question to the Purchaser, such transfer to include full ownership of the records. The transfer shall be at no cost to the Purchaser. The Service Provider shall ensure that all relevant information reasonably required to locate individual items within the records, including metadata and database schema, are also offered to the Purchaser on the same terms.
- 18.6 If the Service Provider shall become bankrupt (whether voluntarily or compulsorily), unable to pay its debts, insolvent or make arrangements with its creditors or if any resolution is adopted for the winding up of any party, or if a receiver, administrator or administrative receiver is appointed over the whole or any part of its assets or if either party goes into liquidation (whether voluntarily or compulsorily), otherwise than for the purposes of amalgamation or reconstruction or any form of execution levied upon its assets, then immediately upon the occurrence of any of these events, the records which would, in terms of clause 18.5 fall to be offered to the Purchaser shall be deemed to be held on trust by the Service Provider on behalf of the Purchaser. The Service Provider shall thereafter, if and when so required by the Purchaser, transfer the records in question to the Purchaser, such transfer to be on the same terms as would apply to a transfer made in terms of clause 18.5.

19. Publicity

- 19.1 The Service Provider must not make any press announcement or otherwise publicise the Contract in any way, except with the written consent of the Purchaser.

SECTION C: PROVISION OF SERVICES

20. Provision of the Services

20.1. The Service Provider must provide the Services:

20.1.1. in accordance with the Specification «F6: the Service Levels» and the Ordering Procedures;

20.1.2. in accordance with the particular requirements of each Order; and

20.1.3. to the satisfaction of the Purchaser acting reasonably.

20.2 The Service Provider acknowledges that the Purchaser relies on the skill, care, diligence and judgment of the Service Provider in the supply of the Services and the performance of its obligations under the Contract.

20.3 For each Order for the provision of services, subject to any contrary requirements of the Purchaser communicated in accordance with the Ordering Procedures, the provisions of this Section C apply.

20.4 The period for any Order agreed in accordance with the Ordering Procedures may be brought to an earlier end upon 3 months' notice by the Purchaser.

21. Deliverables and Milestones

21.1. The Service Provider must provide the Services, including any Deliverables:

21.1.1. at the date(s), time(s) and location(s) required by the Purchaser; and

21.1.2. in good time to meet any Milestones required by the Purchaser.

21.2. When the Service Provider believes acting reasonably that it has provided any Deliverable or completed any Milestone in accordance with the Contract it must notify the Purchaser.

21.3. The Purchaser may thereafter by notice to the Service Provider:

21.3.1. accept the provision of the Deliverable or the completion of the Milestone (as appropriate), having regard to any acceptance criteria communicated in accordance with the Ordering Procedures; or

21.3.2. providing reasons, reject the provision of the Deliverable or the completion of the Milestone.

21.4. Where the Purchaser rejects the completion of a Milestone or provision of a Service or Deliverable in accordance with clause 21.3.2, the Service Provider must at its expense immediately rectify or remedy any defects and/or delays.

21.5. Risk and ownership in any Deliverables that are corporeal movables and in any physical media in which any Deliverables are delivered vests in the Purchaser upon acceptance in accordance with this clause.

21.6. Whether the defect or delay is due to the Purchaser or not, the Service Provider shall deploy all additional resources to address the consequences of the default or delay. Where such default or delay is contributed to by the Purchaser, any additional costs in respect of the said additional resources shall be agreed between the parties both acting reasonably.

21A Service Provider Obligations

21A.1 The Service Provider shall:

21A.1.1 at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Contract;

21A.1.2 obtain, and maintain throughout the Term, 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;

21A.1.3 ensure that:

1. the release of any new Software or upgrade to any Software complies with the interface requirements in the Specification and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Purchaser as soon as reasonably practical before the release of any new Software or upgrade;
2. all Software including upgrades, updates and new releases used by or on behalf of the Service Provider are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
3. it shall minimise any disruption to the Services, the Purchaser's System, the Service Provider's System and/or the Purchaser's operations when carrying out its obligations under this Contract;
4. ensure that any documentation and training provided by the Service Provider to the Purchaser are comprehensive, accurate and prepared in accordance with Good Industry Practice;
5. co-operate with the Related Service Providers and provide reasonable information, advice and assistance in connection with the Services to any Related Service Providers to enable such Related Service Providers to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Contract for any reason, to enable the timely transition of the Services (or any of them) to the Purchaser and/or to any Replacement Service Provider;
6. to the extent it is legally able to do so, hold on trust for the sole benefit of the Purchaser, all warranties and indemnities provided by third parties or any Sub-contractor in respect of any Deliverables and/or the Services and, where any such warranties are held on trust, at its cost enforce such warranties in accordance with any reasonable directions that the Purchaser may notify from time to time to the Service Provider;
7. unless it is unable to do so, assign to the Purchaser on the Purchaser's written request and at the cost of the Service Provider any such warranties and/or indemnities as are referred to in clause 21A.1.3 6;
8. provide the Purchaser with such assistance as the Purchaser may reasonably require during the Term in respect of the supply of the Services; and
9. gather, collate and provide such information and co-operation as the Purchaser may reasonably request for the purposes of ascertaining

the Service Provider's compliance with its obligations under this Contract.

- 21A.2 An obligation on the Service Provider to do, or to refrain from doing, any act or thing shall include an obligation upon the Service Provider to procure that all Service Provider Representatives also do, or refrain from doing, such act or thing.

SECTION D: STAFF INVOLVED IN THE PROVISION OF SERVICES

22. Key Individuals

- 22.1. The Service Provider acknowledges that the Key Individuals are essential to the proper provision of the Services to the Purchaser.
- 22.2. The Key Individuals must not be released from providing the Services without the approval of the Purchaser (such approval not to be unreasonably withheld or delayed), except by reason of long-term sickness, maternity, paternity, adoption or parental leave, termination of employment or equivalent extenuating circumstances. Where such extenuating circumstances arise or are foreseeable, the Service Provider must provide reasonable notice of that fact to the Purchaser.
- 22.3. The Service Provider may propose a replacement to a Key Individual (and must do so when a Key Individual is to be released from providing the Services), in which case:
- 22.3.1. appropriate arrangements must be made to minimise any adverse impact on the Contract which could be caused by the change in Key Individuals (including, wherever possible, a reasonable transfer period of sufficient duration to allow for the transfer of know-how and skills); and
- 22.3.2. the replacement must be of at least equal status and of equivalent qualifications, experience, training and skills to the Key Individual being replaced and must be fully competent to carry out the responsibilities of that person in relation to the Services.
- 22.4. Any proposed replacement to a Key Individual is subject to the approval of the Purchaser. Subject to the Service Provider's compliance with this clause, the Purchaser must not unreasonably withhold such approval.

23. Offers of Employment

- 23.1. For the duration of the Contract and for a period of 12 months thereafter the Service Provider must not employ or offer employment to any of the Purchaser's employees who have been associated with the Contract and/or the contract management of the Contract without the Purchaser's prior approval.
- 23.2. This clause does not prevent the Service Provider from employing or offering employment to any person who has applied for employment in response to an advertisement placed in the normal course of business and not placed with the objective of soliciting the Purchaser's employees.

24. Staff transfer at commencement

- 24.1. «The Parties agree that the commencement of the provision of the Services by the Service Provider does not involve a Relevant Transfer.»

or

- 24.2. The Parties agree that the commencement of the provision of the Services by the Service Provider may constitute a Relevant Transfer in respect of the Incoming Employees.

- 24.3. The Service Provider is responsible for all emoluments and outgoings in respect of the Incoming Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, pay as you earn and national insurance contributions and pension contributions) which are attributable in whole or in part to the period from the date of the Relevant Transfer, including bonuses or commission which are payable on or before the date of the Relevant Transfer but attributable in whole or in part to the period from the date of the Relevant Transfer.
- 24.4. The Service Provider indemnifies the transferor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and any other liabilities which the transferor may incur in respect of the emoluments and outgoings referred to in clause 24.3

25. Information about Service Provider Employees

- 25.1. The Purchaser may by notice require the Service Provider to disclose such information as the Purchaser may require relating to those of the Service Provider's employees carrying out activities under or connected with the Contract.
- 25.2. The Service Provider must disclose by notice all such information as is required by the Purchaser under clause 25.1, within such reasonable period specified by the Purchaser. The Service Provider acknowledges that the Data Protection Laws do not prevent the disclosure of anonymised data that is not personal data within the meaning of that Act.
- 25.3. The Service Provider consents to the disclosure by the Purchaser of all information provided by the Service Provider under this clause to other service providers that the Purchaser may invite to tender or appoint for services to be provided in substitution for the Services.

26. Staff transfer on expiry or termination

- 26.1. «The Parties agree that the ceasing of the provision of the Services by the Service Provider does not involve a Relevant Transfer.»
- or
- 26.2. The Parties agree that the ceasing of the provision of the Services by the Service Provider may constitute a Relevant Transfer in respect of the Outgoing Employees.
- 26.3. The Service Provider indemnifies the Purchaser and any replacement service provider against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Purchaser or any replacement service provider may suffer as a result of or in connection with:
- 26.3.1. the provision of information pursuant to clause 25;
- 26.3.2. any claim or demand by any Outgoing Employee (whether in contract, delict, understatute or otherwise) arising directly or indirectly from any act, fault or omission of the Service Provider in respect of any Outgoing Employee on or before the date of the Relevant Transfer;
- 26.3.3. any failure by the Service Provider to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Purchaser or any replacement service provider to comply with its obligations under regulation 13 of TUPE; and
- 26.3.4. any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Outgoing Employees arising from or connected with any failure by the Service Provider to comply with any legal obligation to such trade union, body or person.
- 26.4. The Service Provider is responsible for all emoluments and outgoings in respect of the Outgoing Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, pay as you earn and national insurance contributions and

pension contributions) which are attributable in whole or in part to the period up to and including the date of the Relevant Transfer (including bonuses or commission which are payable after the date of the Relevant Transfer but attributable in whole or in part to the period on or before the date of the Relevant Transfer).

- 26.5. The Service Provider indemnifies the Purchaser and any replacement service provider against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and any other liabilities which the Purchaser or replacement service provider may incur in respect of the emoluments and outgoings referred to in clause 24.4.

27. Security

- 27.1 The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 27.2 The Service Provider must notify the Purchaser of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.
- 27.3 The Service Provider shall comply with the requirements of Schedule 12 (Security Management)

27A. Malicious Software

- 27A.1 The Service Provider shall, as an enduring obligation throughout the Term, 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, actively monitor for, contain the spread of, and minimise the impact of, Malicious Software in relation to the Purchaser's System and the Service Provider's System.
- 27A.2 Notwithstanding clause 27A.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 Purchaser Data, assist each other to restore the Services to their desired operating efficiency.
- 27A.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause 27A.2 shall be borne by the Parties as follows:

27A.3.1 by the Service Provider where the Malicious Software originates from the Service Provider Software, the Third Party Software supplied by the Service Provider or the Purchaser Data (whilst the Purchaser Data was under the control of the Service Provider) unless the Service Provider can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Purchaser when provided to the Service Provider; and

27A.3.2 otherwise by the Purchaser.

SECTION E: PROVISIONS RELATING TO INTELLECTUAL PROPERTY AND GOVERNANCE

28. Parties' pre-existing Intellectual Property Rights

Except as expressly provided for in the Contract, neither Party acquires any interest in or license to use the other Party's Intellectual Property Rights as they subsist at the Commencement Date or as developed independently of the Contract.

29. Specially Created Intellectual Property Rights

- 29.1. All Intellectual Property Rights «F56: in Deliverables and» and any reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models,

designs or other material prepared by or for the Service Provider specifically on behalf of the Purchaser for use, or intended use, in relation to the performance by the Service Provider of its obligations under the Contract belong to the Purchaser.

- 29.2. The Service Provider assigns to the Purchaser, with full title guarantee, all Intellectual Property Rights which may subsist in the materials referred to in clause 27.1. This assignment takes effect on the Commencement Date or as an assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Service Provider. The Service Provider must execute all documentation necessary to effect this assignment.

30. Licences of Intellectual Property Rights

- 30.1. The Service Provider grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed prior to the Commencement Date and which the Purchaser reasonably requires in order to enjoy the benefit of the Services.
- 30.2. The Service Provider grants to the Purchaser a perpetual royalty-free, irrevocable and non-exclusive license to use any Intellectual Property Rights referred to in clause 29.1 above (Specially Created Intellectual Property Rights).
- 30.3. The Service Provider must ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Contract grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence or, if itself a licensee of those rights, grants to the Purchaser an authorised and equivalently wide sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights. Such licence or sub-licence must be non-exclusive, royalty free and irrevocable.

31. Claims relating to Intellectual Property Rights

- 31.1. The Service Provider must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract and must ensure that the provision of the Services and the use or possession of the Deliverables does not infringe such Intellectual Property Rights.
- 31.2. The Service Provider must promptly notify the Purchaser if any claim or demand is made or action brought against the Service Provider for infringement or alleged infringement of any Intellectual Property Right which may affect the use or possession of the Deliverables or which may affect the provision of the Services.
- 31.3. Where a claim to which this clause applies is made, the Service Provider must, at its expense, use its best endeavours to:
- 31.3.1. modify the Services or Deliverables or substitute alternative Services or Deliverables (in any case without reducing performance or functionality) so as to avoid the infringement or alleged infringement of the Intellectual Property Rights; or
 - 31.3.2. procure the grant of a licence or licences from the pursuer, claimant or complainer, on terms acceptable to the Purchaser, so as to avoid the infringement or alleged infringement of the Intellectual Property Rights of the pursuer, claimant or complainer.
- 31.4. The Service Provider must not without the consent of the Purchaser make any admissions which may be prejudicial to the defence or settlement of any claim to which this clause applies.

32. Assignment

- 32.1. The Service Provider may not assign its interest in the Contract or any part of it without the prior written consent of the Purchaser.

- 32.2. Notwithstanding clause 32.1, the Service Provider may assign to another person (an "**Assignee**") the right to receive the price due to the Service Provider under the Contract subject to:
- 32.2.1. deduction of sums in respect of which the Purchaser exercises its right of recovery under clause 13 (Recovery of Sums Due); and
 - 32.2.2. all the related rights of the Purchaser under the Contract in relation to the recovery of sums due but unpaid.
- 32.3. The Service Provider must notify or ensure that any Assignee notifies the Purchaser of any variations to the arrangements for making payments or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser is under no obligation to vary its arrangements for making payments or for handling invoices.
- 32.4. Subject to clause 32.6, the Purchaser may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority; or
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Purchaser; or
 - (c) any private sector body which substantially performs the functions of the Purchaser,
- provided that any such assignment, novation or other disposal shall not increase the burden of the Service Provider's obligations under the Contract.
- 32.5 Any change in the legal status of the Purchaser such that it ceases to be a Contracting Authority shall not, subject to clause 32.6, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Purchaser.
- 32.6 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause 32.4 to a body which is not a Contracting Authority or if there is a change in the legal status of the Purchaser such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):
- (a) the rights of termination of the Purchaser in clauses 57 (Termination Rights) and 58 (Termination on Insolvency and Change of Control) shall be available to the Service Provider in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and
 - (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Service Provider.
- 32.7 The Purchaser may disclose to any Transferee any Confidential Information of the Service Provider which relates to the performance of the Service Provider's obligations under the Contract. In such circumstances the Purchaser shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Service Provider's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

33. Change of Control

- 33.1 The Service Provider must notify the Purchaser:
- 33.1.1 whenever it proposes to undergo a change of Control, or a change of control is likely to occur; and

33.1.2 immediately following a change of Control that has occurred.

34. Sub-Contracting

34.1. [The Purchaser approves the appointment of the sub-contractors specified in Schedule 6 (Approved Sub-contractors) in respect of the obligations specified in that Schedule.]

34.2. The Service Provider may not sub-contract its obligations under the Contract to other sub-contractors without the prior written consent of the Purchaser. Sub-contracting of any part of the Contract shall not relieve the Service Provider of any obligation or duty attributable to the Service Provider under the Contract. The Service Provider shall be responsible for the acts and omissions of its sub-Service Providers as though they are its own.

34.3. Where the Service Provider enters into a sub-contract the Service Provider must ensure that a provision is included which:

34.3.1. requires payment to be made of all sums due by the Service Provider to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Purchaser has made payment to the Service Provider in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Service Provider is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Service Provider, payment must be made to the sub-contractor without deduction;

34.3.2. notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Purchaser and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Purchaser;

34.3.3. requires that all contracts with subcontractors and suppliers which the subcontractor intends to procure, and which the subcontractor has not before the date of this Contract, already planned to award to a particular supplier are advertised through the Public Contracts Scotland procurement portal (www.publiccontractsscotland.gov.uk) and awarded following a fair, open, transparent and competitive process proportionate to the nature and value of the contract; and

34.3.4. is in the same terms as that set out in this clause 31 (including for the avoidance of doubt this clause 31.3.4) subject only to modification to refer to the correct designation of the equivalent party as the Service Provider and sub-contractor as the case may be.

34.4. The Service Provider shall also include in every sub-contract:

34.4.1 a right for the Service Provider to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract, contract award despite the existence of exclusion grounds or a serious infringement of EU legal obligations) specified in clause 57.3 occur; and

34.4.2 a requirement that the sub-contractor includes a provision having the same effect as 34.4.1 in any sub-contract which it awards.

In this clause 34.4, 'sub-contract' means a contract between two or more service providers, at any stage of remoteness from the Purchaser in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

- 34.5. Where requested by the Purchaser, copies of any sub-contract must be sent by the Service Provider to the Purchaser as soon as reasonably practicable.
- 34.6. Where the Service Provider proposes to enter into a sub-contract which has a value in excess of £119,000 except where the Supplier already has established supply chain arrangements that it intends to use to deliver the requirements it must:
- 34.6.1 advertise its intention to do so in at least one trade journal, [at least one newspaper circulating in [*refer to locality*]] and the Public Contracts Scotland Portal; and
- 34.6.2 follow a procedure leading to the selection of the sub-contractor which ensures reasonable competition following principles of equal treatment, non-discrimination and transparency and which ensures that such procedure is accessible by small and medium enterprises.
35. **Amendment**
- 35.1. The Contract may be amended only by the written agreement of both Parties. Accordingly, the parties may not unilaterally amend the Contract.

SECTION F SERVICE PROVIDER CONDUCT REQUIREMENTS

36. Compliance with the Law etc.

- 36.1 In providing the Services and otherwise when performing the Contract, the Service Provider must comply in all respects with:
- 36.1.1 all applicable law;
- 36.1.2 any applicable requirements of regulatory bodies; and
- 36.1.3 Good Industry Practice.

37. Official Secrets Acts

- 37.1 The Service Provider undertakes to abide and procure that the Service Provider's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.

38. Service Provider's responsibility for staff etc.

- 38.1. The Service Provider is responsible for the acts and omissions of all Service Provider Representatives relating to the Contract as though such acts and omissions are the Service Provider's own.
- 38.2. The Service Provider must ensure that all Service Provider Representatives:
- 38.2.1. are appropriately experienced, skilled, qualified and trained;
- 38.2.2. carry out their activities connected with the Contract faithfully and diligently and with all with due skill, care and diligence; and
- 38.2.3. obey all lawful and reasonable directions of the Purchaser when carrying out activities under the Contract.

39. Access to the Purchaser's premises

- 39.1. Any access to, or occupation of, the Purchaser's premises which the Purchaser may grant the Service Provider from time to time is on a non-exclusive licence basis free of charge. The Service Provider must use the Purchaser's premises solely for the purpose of performing its

obligations under the Contract and must limit access to the Purchaser's premises to such individuals as are necessary for that purpose.

- 39.2. The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 39.3. At the Purchaser's written request, the Service Provider must provide a list of the names and addresses of all persons who may require admission to the Purchaser's premises in connection with the Contract, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Purchaser may reasonably request.
- 39.4. The Service Provider must ensure that any individual Service Provider Representative entering the Purchaser's premises has completed the process for obtaining Baseline Personnel Security Standard clearance. The Service Provider acknowledges that the Purchaser has the right to deny entry to any individual that has not completed the process for obtaining Baseline Personnel Security Standard clearance.
- 39.5. In accordance with the Purchaser's policies concerning visitor access, entry to the Purchaser's premises may be granted to individual Service Provider Representatives for the purposes of meetings, notwithstanding that the process for obtaining Baseline Personnel Security Standard clearance has not commenced or completed.
- 39.6. The Purchaser may, by notice to the Service Provider, refuse to admit onto, or withdraw permission to remain on, the Purchaser's premises any Service Provider Representative whose admission or continued presence would, in the opinion of the Purchaser acting reasonably, be undesirable.
- 39.7. The Purchaser must provide advice and assistance acting reasonably to the Service Provider to facilitate the Service Provider's compliance with this clause.
- 39.8. All decisions of the Purchaser under this clause are final and conclusive.

40. Service Provider's Equipment

- 40.1. The Service Provider must provide all Equipment necessary to perform any required activities on the Purchaser's premises or otherwise necessary for the provision of Services.
- 40.2. But the Service Provider must not, without the Purchaser's approval:
 - 40.2.1. bring Equipment onto the Purchaser's premises; or
 - 40.2.2. leave Equipment on the premises.
- 40.3. Any Equipment brought onto the Purchaser's premises:
 - 40.3.1. remains the property of the Service Provider; and
 - 40.3.2. is at the Service Provider's own risk and the Purchaser has no liability for any loss of or damage to the Equipment unless the Service Provider is able to demonstrate that such loss or damage was caused or contributed to by the Purchaser's Default.
- 40.4. The Service Provider must keep all Equipment brought onto the Purchaser's premises in a safe, serviceable and clean condition. The Purchaser may at any time require the Service Provider to remove from the Purchaser's premises any Equipment which in the opinion of the Purchaser acting reasonably is either hazardous, noxious or not in accordance with the Contract and substitute proper and suitable Equipment at the Service Provider's expense as soon as reasonably practicable.
- 40.5. On completion of any required activities on the Purchaser's premises or at the end of a Working Day (as appropriate), the Service Provider must at its own expense:

- 40.5.1. remove all Equipment; and
- 40.5.2. leave the premises in a clean, safe and tidy condition, clearing away all rubbish arising out of the Service Provider's activities.
- 40.6. The Service Provider is solely responsible for making good any damage to the Purchaser's premises or any objects contained therein, other than wear and tear, which is caused by the Service Provider.
- 41. Purchaser Property**
- 41.1. Where the Purchaser issues Purchaser Property to the Service Provider, the Purchaser Property remains at all times the property of the Purchaser.
- 41.2. The Service Provider undertakes the safe custody of the Purchaser Property and to that end must:
 - 41.2.1. keep the Purchaser Property in good order and condition (excluding wear and tear);
 - 41.2.2. comply with any particular security requirements communicated to the Purchaser in relation to the Purchaser Property;
 - 41.2.3. use any Purchaser Property solely in connection with the Contract and for no other purpose; and
 - 41.2.4. store the Purchaser Property separately and ensure that it is clearly identifiable as belonging to the Purchaser.
- 41.3. The Purchaser Property is deemed for the purposes of clause 41.2.1 to be in good order and condition when received by the Service Provider unless the Service Provider notifies the Purchaser otherwise within 5 Working Days of receipt.
- 41.4. The Service Provider must not:
 - 41.4.1. modify or replace the Purchaser Property;
 - 41.4.2. use the Purchaser Property as security for a loan or other obligation;
 - 41.4.3. sell, or attempt to sell or part with possession of the Purchaser Property; or
 - 41.4.4. allow anyone to obtain a lien over, or right to retain, the Purchaser Property.
- 41.5. The Service Provider licences the Purchaser to enter any premises of the Service Provider during Working Hours on reasonable notice to recover any Purchaser Property.
- 41.6. The Service Provider undertakes the due return of the Purchaser Property and as such is liable for all loss of, or damage to, the Purchaser Property (excluding wear and tear), unless such loss or damage was caused or contributed to by the Purchaser's Default. The Service Provider must notify the Purchaser promptly and, in any event within 2 Working Days, upon becoming aware of any defects appearing in or losses or damage occurring to the Purchaser Property.
- 42. Health and Safety etc.**
- 42.1. While on the Purchaser's premises, the Service Provider must comply with the Purchaser's policies concerning health and safety and fire and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 42.2. The Service Provider must immediately inform the Purchaser in the event of any incident occurring in the performance of its obligations under the Contract on the Purchaser's premises

where that incident causes any personal injury or damage to property which could give rise to personal injury. The Service Provider must then promptly notify the Purchaser of that fact.

42.3. The Purchaser must promptly notify the Service Provider of any health and safety hazards which may exist or arise at the Purchaser's premises and which may affect the Service Provider in the performance of its obligations under the Contract.

42.4. The Service Provider must promptly make available its statutory health and safety policy statement to the Purchaser on request.

43. Offences

43.1. The Service Provider must not commit or attempt to commit any offence:

43.1.1. under the Bribery Act 2010;

43.1.2. of fraud, uttering, or embezzlement at common law; or

43.1.3. of any other kind referred to in regulation 58(1) of the Public Contracts (Scotland) Regulations 2015.

43.2. Breach of clause 43.1 is a material breach for the purposes of clause 57 (Termination Rights).

44. Tax Arrangements

44.1 Where the Service Provider is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

44.2 Where the Service Provider is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

44.3 The Purchaser may, at any time during the term of this contract, request the Service Provider to provide information which demonstrates how the Service Provider complies with sub-clauses 44.1 and 44.2 above or why those clauses do not apply to it.

44.4 A request under sub-clause 44.3 above may specify the information which the Service Provider must provide and the period within which that information must be provided.

44.5 The Purchaser may supply any information which it receives under clause 44 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

44.6 The Service Provider shall take all reasonable steps to ensure the observance of the provisions of this clause 44 by all of their servants, employees, agents, consultants and sub-contractors.

44.7 Where the Service Provider enters into any sub-contract with any of its servants, employees, agents, consultants and/or sub-contractors, the Service Provider must ensure that a provision is included which is in the same terms as this clause 44 subject only to modification to refer to the correct designation of the equivalent party as the Service Provider.

45. Discrimination

45.1 The Service Provider must not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser.

46. Blacklisting

- 46.1 The Service Provider must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a material default which shall entitle the Purchaser to terminate the Contract.

47. Sustainability

- 47.1 The Service Provider shall perform its obligations under the Call-off Contract in a manner so as to:
- 47.1.1 conserve energy and minimize carbon emissions, where practical;
 - 47.1.2 conserve materials such as wood, paper and other natural resources;
 - 47.1.3 minimise waste and maximise, recycling while supporting circular economy outcomes through extending the useful life, reuse and reconditioning of devices;
 - 47.1.4 phase out the use of ozone depleting substances and minimize the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment;
 - 47.1.5 make all reasonable efforts to minimise its use of packaging, reuse where practical and avoid the use of packaging which consumes a disproportionate amount of energy or resources during manufacture, use, or disposal or which contains materials derived from threatened species or threatened environments.
 - 47.1.6 maintain security of supply through appropriate supply chain management of risks, which are reasonable within the control of the Contractor, and which may arise due to the availability of components, environmental of social factors and others as relevant.
- 47.2 If requested by the Purchaser the Contractor shall provide the Purchaser with a copy of its environmental policy as well as evidence as to how it reasonably meets the commitment made within the policy.
- 47.3 Service Provider is expected to have appropriate standards for its organisation and its supply chain regarding legal, ethical and social issues. This should include for example: health and safety, waste disposal and recycling, security of employment rights and relevant labour standards, working conditions, equality, the use of conflict minerals within products and corruption.
- 47.4 The Service Provider must take all reasonable steps to ensure that all Services supplied under this Framework Agreement are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin, in particular in relation to labour standards, working conditions and the use of child labour.
- 47.5 The Service Provider will be required to maintain a comprehensive labour standards system at all times and make management information available to the Purchaser every 12 months and on request.

48. Conflicts of interest

- 48.1 The Service Provider must take appropriate steps to ensure that the Purchaser is not placed in a position where, in the reasonable opinion of the Purchaser, there is an actual or

potential conflict between the interests of the Service Provider and the duties owed to the Purchaser under the Contract.

- 48.2 The Service Provider must disclose by notice to the Purchaser full particulars of any actual or potential conflict of interest which may arise and must take such steps as are necessary to avoid or remove the conflict of interest.
- 48.3 Breach of this clause by the Service Provider is a material breach for the purposes of clause 57 (Termination Rights).

SECTION G FINAL PROVISIONS

49. Warranties and Representations

The Service Provider warrants and represents that:

- 49.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised individual;
- 49.2 in entering the Contract it has not committed any offence under the Bribery Act 2010 or of fraud or uttering at common law or any other kind referred to in the Public Contracts (Scotland) Regulations 2015;
- 49.3 it has not committed any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or committed any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities;
- 49.4 as at the Commencement Date, all information contained in the ESPD and Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract;
- 49.5 no claim is being asserted and no litigation, alternative dispute resolution procedure or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- 49.6 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 the Contract;
- 49.7 no 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 Service Provider 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 Service Provider's assets or revenue;
- 49.8 it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- 49.9 in the 3 years prior to the Commencement Date:
- 49.9.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
- 49.9.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established;

- 49.10 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- 49.11 it has made appropriate inquiries (for example as regards the Purchaser's premises) so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract;
- 49.12 it is familiar with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and health and safety and fire as they apply at the Commencement Date;
- 49.13 it has in place appropriate technical and organisational measures to safeguard any Purchaser Protected Information provided by the Purchaser;
- 49.14 there are no actual or potential conflicts between the interests of the Service Provider and the duties owed to the Purchaser under the Contract, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract; and
- 49.15 it is deemed to have inspected any premises at which the services are to be performed as set out in the Specification (the 'Premises') before tendering so as to have understood the nature and extent of the Services to be carried out and is deemed to be satisfied in relation to all matters connected with the Services and the Premises.

50. Indemnity

- 50.1 The Service Provider shall indemnify the Purchaser against all claims, proceedings, actions, damages, costs, charges, expenses and any other liabilities which may arise out of, or in consequence of, any Default of the Service Provider.
- 50.2 The Purchaser shall indemnify the Service Provider in respect of all claims, proceedings, actions, damages, fines, costs, expenses or other liabilities which may arise out of, or in consequence of, a breach of the Data Protection Laws where the breach is the direct result of the Service Provider acting in accordance with the Purchaser's specific written instructions. This indemnity provision shall not apply if the Service Provider:-
 - (a) acts on the Purchaser's specific written instructions but fails to notify the Purchaser in accordance with clause 14.12(c) of this Contract;
 - (b) fails to comply with any other obligation under the Contract.

51. Limitation of Liability

- 51.1 Neither Party is liable to the other Party under the Contract for any:
 - 51.1.1 loss of profits, business, revenue or goodwill; or
 - 51.1.2 indirect or consequential loss or damage.
- 51.2 But clause 51.1 does not exclude any liability of the Service Provider for additional operational, administrative costs or expenses or wasted expenditure resulting from the Default of the Service Provider.
- 51.3 The liability of either Party under the Contract for Defaults is limited to £5,000,000 per instance or any greater / other sums as may be agreed with the Framework Public Body.
- 51.4 But neither Party excludes or limits liability to the other Party for:
 - 51.4.1 death or personal injury caused by its negligence;
 - 51.4.2 fraudulent misrepresentation;

52. Insurances

- 52.1 The Service Provider must effect and maintain with a reputable insurance company:
- 52.1.1 public liability insurance in the sum of not less than £1,000,000 (or any such value decided by the Framework Public Body) per occurrence or such greater / other sums as may be agreed with the Framework Public Body.
- 52.1.2 professional indemnity insurance in the sum of not less than £1,000,000 (or any such value decided by the Framework Public Body) per claim or such greater/other sums as may be agreed with the Framework Public Body; and
- 52.1.3 employer's liability insurance in accordance with any legal obligation for the time being in force.
- 52.2 Such insurance must be maintained for the duration of the Contract and for a minimum of 5 years following the expiry or termination of the Contract.
- 52.3 The Service Provider must give the Purchaser, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

53. Force Majeure

- 53.1 Neither Party is liable to the other Party for any delay in performing, or other failure to perform, its obligations under the Contract to the extent that such delay or failure is a result of Force Majeure. Nonetheless, each Party must use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of Force Majeure, either Party may terminate the Contract with immediate effect by notice.
- 53.2 Any delay or other failure by the Service Provider in performing its obligations under the Contract which results from any failure or delay by a Service Provider Representative is only to be regarded as due to Force Majeure if that Service Provider Representative is itself impeded by Force Majeure from complying with an obligation to the Service Provider.
- 53.3 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any delay or failure on its part as described in clause 40.1, it must immediately notify the other Party of the Force Majeure and the estimated period for which the failure or delay is to continue.
- 53.4 The only events that afford relief from liability for failure or delay under the Contract are Force Majeure events.

54. Dispute Resolution

- 54.1 The Parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract in accordance with the Management Arrangements.
- 54.2 Any dispute or difference arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, which cannot be resolved in accordance with the Management Arrangements, shall be determined by the appointment of a single arbitrator to be agreed between the Parties, and failing agreement within 14 days after either Party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either Party. The seat of the arbitration shall be in Scotland. The language used in the arbitral proceedings shall be English.

54.3 Any arbitration under clause 54.2 is subject to the Arbitration (Scotland) Act 2010.

55. Severability

55.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision is severed and the remainder of the provisions of the Contract continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

56. Waiver and Cumulative Remedies

56.1 Any failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy does not constitute a waiver of that right or remedy and does not cause a diminution of the obligations established by the Contract.

56.2 Accordingly, no waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 10 (notices).

56.3 A waiver of any Default is not a waiver of any subsequent Default.

56.4 The rights and remedies provided by the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy is not to be deemed an election of such remedy to the exclusion of other remedies.

57. Termination Rights

57.1 The Purchaser may terminate the Contract by notice to the Service Provider with immediate effect if the Service Provider commits a Default and:

57.1.1 the Service Provider has not remedied the Default to the satisfaction of the Purchaser within 20 Working Days, or such other reasonable period as may be specified by the Purchaser, after issue of a notice specifying the Default and requesting it to be remedied;

57.1.2 the Default is not in the reasonable opinion of the Purchaser, capable of remedy; or

57.1.3 the Default is a material breach of the Contract.

57.2 The Purchaser may also terminate the Contract in accordance with any provisions of the Schedules.

57.3 The Purchaser may terminate the Contract in the event that:

(a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of The Public Contracts (Scotland) Regulations 2015;

(b) the Service Provider has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of The Public Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure; or

(c) the Contract should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

In this Condition, 'the Treaties' has the meaning given in the European Communities Act 1972.

- 57.3 The Purchaser may also terminate the Contract in the event of a failure by the Service Provider to comply in the performance of the Services with legal obligations in the fields of environmental, social or employment law.
- 57.4 The Purchaser may also terminate the Contract where, at any time before the term of the Contract, the Service Provider or any person falling within the description set out in paragraph (2) of regulation 58 of The Public Contracts (Scotland) Regulations 2015 commits an offence referred to in paragraph (1) of that regulation.

58. Termination on Insolvency and Change of Control or Financial Distress

- 58.1 The Service Provider shall notify in writing immediately, and the Purchaser may terminate the Contract with immediate effect by notice, where in respect of the Service Provider:

58.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

58.1.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);

58.1.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;

58.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;

58.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;

58.1.6 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

58.1.7 being a "small company" within the meaning of section 382 of the Companies Act 2006, a moratorium comes into force pursuant to schedule A1 to the Insolvency Act 1986;

58.1.8 a debt relief order is entered into; or

58.1.9 any event similar to those listed above occurs under the law of any other jurisdiction.

- 58.2 The Purchaser may terminate the Contract by notice with immediate effect within 6 months of:

58.2.1 being notified that a change of Control has occurred in accordance with clause 33 (Change of Control); or

58.2.2 where no such notification has been given, the date that the Purchaser becomes aware of the change of control.

- 58.3 But the Purchaser may not terminate the Contract under clause 58.2 where approval of the change of control has been granted by notice by the Purchaser.

- 58.4 The Purchaser shall be entitled to terminate this Contract with immediate effect by written notice to the Contractor if:

58.4.1 the Service Provider fails to notify the Purchaser of a Financial Distress Event in accordance with clause 58A (*Financial Distress*); and/or

58.4.2 the Parties fail to agree a Financial Distress Event Remedial Plan in accordance with clause 58A (*Financial Distress*); and/or

58.4.3 the Service Provider fails to comply with the terms of the Financial Distress Event Remedial Plan in accordance with clause 58A (*Financial Distress*).

58A. FINANCIAL DISTRESS

58A.1 During the Term, the Service Provider shall regularly monitor its own and each of its Key Sub-contractors' credit ratings or (where used as proxies for credit ratings) Dun & Bradstreet rating, which at the Commencement Date are as follows:

ORGANISATION	AGENCY	RATING
Vodafone Ltd	Dun & Bradstreet	REDACTED
Orbis Protect Ltd	Dun & Bradstreet	REDACTED

58A.2. During the Term, the Service Provider shall not enter into a Key Sub-contract, or extend the duration of a Key Sub-contract if, at the time the Key Sub-contract is entered into or extended, the relevant Key Sub-contractor has:

58A.2.1 a credit rating that is lower than S&P "investment grade (BBB)" (or the equivalent credit rating level for another Rating Agency); or

58A.2.2 a Risk Indicator rating of more than 2 (low risk) with Dun & Bradstreet.

58A.3 The Service Provider shall promptly notify (or shall procure that its auditors promptly notify) the Purchaser in writing following the occurrence of a Financial Distress Event (and in any event ensure that such notification is made within ten (10) Working Days of the date on which the Service Provider first becomes aware of the Financial Distress Event).

58A.4. If the Purchaser reasonably believes that the Financial Distress Event could adversely impact the performance of this Contract, at the request of the Purchaser the Service Provider shall:

58A.4.1 (and shall procure that the relevant Key Sub-contractors shall) meet with the Purchaser as soon as practicable to review the effect of the Financial Distress Event on the continued performance of this Contract;

58A.4.2 as soon as practicable and in any event within ten (10) Working Days (taking into account any discussions and any representations made pursuant to clause 58A.4.1 (Financial Distress), provide a draft Financial Distress Event Remedial Plan for approval by the Purchaser explaining how the Service Provider and/or relevant Key Sub-contractor will remedy the potential adverse impact of the Financial Distress Event on the continued performance of this Contract; and

58A.4.3 provide such financial information as the Purchaser may reasonably require to support clause 58A.4.2 (Financial Distress).

58A.5 The Service Provider shall incorporate any reasonable comments provided by the Purchaser on the draft Financial Distress Event Remedial Plan and provide such number of revised drafts as may reasonably be required until the Purchaser has approved the Financial Distress Event Remedial Plan (which approval shall not be unreasonably withheld or delayed).

58A.6 Following approval of any Financial Distress Event Remedial Plan pursuant to clause 58A.5 the Service Provider shall implement the plan in accordance with its terms and review the plan on a regular basis and assess whether it remains adequate and up to date so as to ensure the continued performance of this Contract.

59. Exit Management

- 59.1 The Service Provider shall perform its relevant Exit Management obligations as part of the Contract whether applicable on either the expiry or early termination of this Contract.
- 59.2 The Service Provider agrees that if it breaches (or attempts or threatens to breach) its obligation to provide Exit Management, the Purchaser and their respective customers and stakeholders shall be irreparably harmed. In such circumstance, the Service Provider agrees that the Purchaser may proceed directly to court notwithstanding anything to the contrary in the dispute resolution procedure outlined in Clause 54 (Dispute Resolution). If a court of competent jurisdiction finds that the Service Provider has breached (or attempted or threatened to breach) any such obligation, the Service Provider agrees that without any additional findings of irreparable injury, or other conditions to interdict, the Service Provider shall not oppose the entry of an appropriate order compelling performance by the Service Provider and restraining the Service Provider from any further breaches or attempted or threatened breaches of its obligations in relation to Exit Management.
- 59.3 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Purchaser within [three (3) months] after the Commencement Date and shall include or address the matters specified in Clause 59.3. The Purchaser shall provide to the Service Provider the Purchaser's comments on the plan within one (1) month of the Purchaser's receipt of the plan. The Service Provider shall take into account the comments and suggestions of the Purchaser and shall issue the final version of the Exit Plan to the Purchaser within ten (10) Working Days of receipt of the Purchaser's comments.
- 59.4 The Service Provider shall throughout the period of the Contract review, maintain and continuously update the Exit Plan which shall include:-
- 59.4.1 the activities required to enable the Purchaser to re-tender the Purchaser Requirements and/or the provision of the Services;
 - 59.4.2 the activities necessary to support any Replacement Service Provider or the Purchaser in carrying out any necessary due diligence relating to all or part of the Services;
 - 59.4.3 details of the Exit Management to be provided by the Service Provider prior to the Exit Management Date;
 - 59.4.4 support for the Replacement Service Provider or the Purchaser during their preparation of any relevant plan for the transition of the System to the Replacement Service Provider or Purchaser, including prior to and during such transition period;
 - 59.4.5 the maintenance of a 'business as usual' environment for the Purchaser during the period when Exit Management obligations are applicable; and
 - 59.4.6 all other necessary activities to support the preparation for, and execution of, a smooth and orderly Exit Management and transfer of all or part of the Services to either a Replacement Service Provider or the Purchaser.
- 59.5 No amendment of the Exit Plan shall be made without prior written consent of the Purchaser.

60. Consequences of Expiry or Termination

- 60.1 Where the Purchaser terminates the Contract under clause 57 (Termination Rights) and makes other arrangements for the provision of services, the Service Provider indemnifies the Purchaser against all costs incurred in making those arrangements.
- 60.2 Where the Purchaser terminates the Contract under clause 5 (Break), the Purchaser indemnifies the Service Provider against any unavoidable losses directly resulting from the termination of the Contract (excluding loss of profit).

- 60.3 Any indemnity given by the Purchaser under clause 60.2 is subject to the Service Provider:
- 60.3.1 taking all reasonable steps to mitigate its loss;
- 60.3.2 taking all reasonable steps to recover its losses under any insurance policies held by it; and
- 60.3.3 submitting a fully itemised and costed list of losses which it seeks to recover from the Purchaser together with supporting evidence.
- 60.4 Except as provided for in clauses 50 (Indemnity), 60.1 and 60.2 and the Management Arrangements, no indemnity is given or special payment is to be made by either Party to the other Party on expiry or termination of the Contract.
- 60.5 On expiry or termination of the Contract the Service Provider must:
- 60.5.1 immediately return to the Purchaser all Purchaser Property and Purchaser Protected Information in its possession; and
- 60.5.2 destroy or delete any copies of Purchaser Protected Information (whether physical or electronic) in its possession.
- 60.6 The following provisions survive the expiry or termination of the Contract:
- 60.6.1 clause 1 (Definitions and Interpretation);
- 60.6.2 clause 13 (Recovery of Sums Due);
- 60.6.3 clause 14 (Data Protection);
- 60.6.4 clause 15 (Transparency and Freedom of Information);
- 60.6.5 clause 16 (Purchaser Protected Information);
- 60.6.6 clause 17 (Service Provider Sensitive Information);
- 60.6.7 clause 18 (Audit [and Records Management]);
- 60.6.8 clause 19 (Publicity);
- 60.6.9 clause 23 (Offers of Employment);
- 60.6.10 clause 25 (Information about Service Provider Employees);
- 60.6.11 clause 26 (Staff transfer on expiry or termination);
- 60.6.12 clause 28 (Parties' pre-existing Intellectual Property Rights);
- 60.6.13 clause 29 (Specially Created Intellectual Property Rights);
- 60.6.14 clause 30 (Licences of Intellectual Property Rights);
- 60.6.15 clause 31 (Claims relating to Intellectual Property Rights);
- 60.6.16 clause 37 (Official Secrets Acts);
- 60.6.17 clause 40 (Service Provider's Equipment);
- 60.6.18 clause 41 (Purchaser Property);
- 60.6.19 clause 44 (Tax arrangements);
- 60.6.20 clause 47 (Sustainability);
- 60.6.21 clause 49 (Warranties and Representations);
- 60.6.22 clause 50 (Indemnity);
- 60.6.23 clause 51 (Limitation of Liability);
- 60.6.24 clause 52 (Insurances);
- 60.6.25 clause 54 (Dispute Resolution);
- 60.6.26 clause 56 (Waiver and Cumulative Remedies);
- 60.6.28 clause 62 (Governing Law and Jurisdiction).
- 60.7 If a Judicial Order is made, the provisions of the Management Arrangements referring to that possibility apply.
- 60.8 Immediately upon termination of the Contract for any reason whatsoever the Service Provider shall render such reasonable assistance to the Purchaser or third party nominated by the Purchaser, if requested, as may be necessary to effect an orderly assumption by a Replacement Service Provider of the Services previously performed by the Service Provider

under the Contract. The Service Provider shall be entitled to charge for such termination services in accordance with provisions contained in the Exit Management Plan.

61. Entire Agreement

61.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with herein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause does not exclude liability in respect of any misrepresentation (whether in the ESPD or Tender or otherwise).

61.2 In the event of, and only to the extent of, any conflict between the clauses of the Contract, the Schedules and any document referred to in the Contract, the following order of precedence applies:

61.2.1 the clauses of the Contract;

61.2.2 the Schedules; and

61.2.3. the Framework Agreement, and

61.2.4 any other document referred to in the Contract.

62. Governing Law and Jurisdiction

62.1 The Contract is governed by and interpreted in accordance with Scots law and, subject to clause 54 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents typewritten on this and the [] number of pages before this page preceding pages together with [the number of Schedules] Schedules annexed are executed as follows:

SIGNED for and on behalf of the Scottish Ministers

SIGNED for and on behalf of Vodafone Ltd

At.....

At.....

On.....

On.....

Signature.....

Signature.....

Full name

Full name.....

Position

Position.....

Address.....

Address.....

In the presence of

In the presence of

Signature.....

Signature.....

Full name

Full name.....

Address.....

Address.....

This and the following [] pages comprise Schedule 1 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 1 – SPECIFICATION AND SERVICE LEVELS

This and the following [] pages comprise Schedule 1 to the Framework Agreement between the Scottish Ministers and [Service Provider's name]

This and the following [] pages comprise Schedule 2 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 2 - PRICING SCHEDULE

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This and the following [] pages comprise Schedule 3 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 3 – ORDERING PROCEDURES

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This and the following [] pages comprise Schedule 4 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 4 – MANAGEMENT ARRANGEMENTS

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This and the following [] pages comprise Schedule 5 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 5 – KEY INDIVIDUALS

1. e.g. Joe Bloggs, Contract Manager
2. e.g. Jane Doe, Software Specialist

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This and the following [] pages comprise Schedule 6 to the foregoing Contract between the Purchaser and Vodafone Ltd]

SCHEDULE 6 – APPROVED SUB-CONTRACTORS

approved Sub-Service Provider(s)	Relevant obligations
1. e.g. Subco Limited (SC123456)	e.g. high risk consultancy services
2.	

This and the following [] pages comprise Schedule 7 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 7 – TRANSPARENCY REPORTS AND SERVICE PROVIDER SENSITIVE INFORMATION

Part 1- Transparency Reports

The Purchaser will routinely publish information in relation to the Contract. This information will be released in Transparency Reports. An example of the type and frequency of the information is as follows:

TRANSPARENCY REPORTS (to be completed by the Purchaser within 3 months of Contract Award)

TITLE	CONTENT	FORMAT	FREQUENCY
<i>(Contract Document)</i>			Once
<i>(Performance)</i>			TBC
<i>(Charges)</i>			TBC
<i>(Major sub-contractors)</i>			TBC
<i>(Technical)</i>			TBC

Part 2

SERVICE PROVIDER SENSITIVE INFORMATION – see below

Type of information specified as Service Provider Sensitive Information	Reason why information is sensitive	Duration of sensitivity

This and the following [] pages comprise Schedule 8 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 8 – NOT USED

This and the following [] pages comprise Schedule 9 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 9 – DATA PROTECTION

Data Processing provision as required by Article 28(3) GDPR.

This Part includes certain details of the Processing of Personal Data in connection with the Services:

Subject matter and duration of the Processing of Personal Data

The subject matter and duration of the Processing of Personal Data are set out in the Contract.

The nature and purpose of the Processing of Personal Data

[Include description here]

The types of Personal Data to be Processed

[Include list of data types here]

The categories of Data Subject to whom Personal Data relates

[Include categories of data subjects here]

The obligations and rights of the Purchaser

The obligations and rights of the Purchaser as the Data Controller are set out in Clause 14 of the Contract.

This and the following [] pages comprise Schedule 10 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 10 – EXIT MANAGEMENT

[]

This and the following [] pages comprise Schedule 11 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 11 – Business Continuity and Disaster Recovery

1. BCDR PLAN

1.1 Within sixty (60) Working Days from the Commencement Date the Service Provider shall prepare and deliver to the Purchaser for the Purchaser's written approval a plan, which shall detail the processes and arrangements that the Service Provider shall follow to:

1.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and

1.1.2 the recovery of the Services in the event of a Disaster.

1.2 The BCDR Plan shall:

1.2.1 be divided into three parts:

(a) Part A which shall set out general principles applicable to the BCDR Plan;

(b) Part B which shall relate to business continuity (the "Business Continuity Plan"); and

(c) Part C which shall relate to disaster recovery (the "Disaster Recovery Plan"); and

1.2.2 unless otherwise required by the Purchaser in writing, be based upon and be consistent with the provisions of paragraphs 2, 3 and 4.

1.3 Following receipt of the draft BCDR Plan from the Service Provider, the Purchaser shall:

1.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and

1.3.2 notify the Service Provider in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Purchaser.

1.4 If the Purchaser rejects the draft BCDR Plan:

1.4.1 the Purchaser shall inform the Service Provider in writing of its reasons for its rejection; and

1.4.2 the Service Provider shall then revise the draft BCDR Plan (taking reasonable account of the Purchaser's comments) and shall re-submit a revised draft BCDR Plan to the Purchaser for the Purchaser's approval within twenty (20) Working Days of the date of the Purchaser's notice of rejection. The provisions of paragraph 1.3 and this paragraph 1.4 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution in accordance with the procedure outlined in clause 54 (Dispute Resolution).

2. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

2.1 Part A of the BCDR Plan shall:

2.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;

- 2.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the Services and any services provided to the Purchaser by a Related Service Provider;
 - 2.1.3 contain an obligation upon the Service Provider to liaise with the Purchaser and (at the Purchaser's request) any Related Service Provider with respect to issues concerning business continuity and disaster recovery where applicable;
 - 2.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Purchaser and any of its other Related Service Providers in each case as notified to the Service Provider by the Purchaser from time to time;
 - 2.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Purchaser;
 - 2.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the Services with the services provided by a Related Service Provider; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
 - 2.1.7 provide for documentation of processes, including business processes, and procedures;
 - 2.1.8 set out key contact details (including roles and responsibilities) for the Service Provider (and any Sub-contractors) and for the Purchaser;
 - 2.1.9 identify the procedures for reverting to "normal service";
 - 2.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 2.1.11 identify the responsibilities (if any) that the Purchaser has agreed in writing that it will assume in the event of the invocation of the BCDR Plan; and
 - 2.1.12 provide for the provision of technical advice and assistance to key contacts at the Purchaser as notified by the Purchaser from time to time to inform decisions in support of the Purchaser's business continuity plans.
- 2.2 The BCDR Plan shall be designed so as to ensure that:
- 2.2.1 the Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 2.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Purchaser is minimal as far as reasonably possible;
 - 2.2.3 it complies with the relevant provisions of ISO/IEC 27002, ISO/IEC 22301 and all other industry standards from time to time in force; and

- 2.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 2.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the Services.
- 2.4 The Service Provider shall not be entitled to any relief from its obligations under the Service Levels (if applicable) or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Service Provider of this Contract.

3. BUSINESS CONTINUITY PLAN – PRINCIPLES AND CONTENTS

- 3.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Purchaser expressly states otherwise in writing:
 - 3.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and
 - 3.1.2 the steps to be taken by the Service Provider upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 3.2 The Business Continuity Plan shall:
 - 3.2.1 address the various possible levels of failures of or disruptions to the Services;
 - 3.2.2 set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the “Business Continuity Services”);
 - 3.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of other Services during any period of invocation of the Business Continuity Plan; and
 - 3.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

4. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Service Provider ensures continuity of the business operations of the Purchaser supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 4.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 4.3 The Disaster Recovery Plan shall include the following:
 - 4.3.1 the technical design and build specification of the Disaster Recovery System;
 - 4.3.2 details of the procedures and processes to be put in place by the Service Provider in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) backup methodology and details of the Service Provider's approach to data back-up and data verification;
 - (b) identification of all potential disaster scenarios;

- (c) risk analysis;
 - (d) documentation of processes and procedures;
 - (e) hardware/software configuration details;
 - (f) network planning including details of all relevant data networks and communication links;
 - (g) invocation rules;
 - (h) Services recovery procedures; and
 - (i) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- 4.3.3 any applicable Service Levels with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Service Levels in respect of other Services during any period of invocation of the Disaster Recovery Plan;
- 4.3.4 details of how the Service Provider shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 4.3.5 access controls to any disaster recovery sites used by the Service Provider in relation to its obligations pursuant to this Schedule; and
- 4.3.6 testing and management arrangements.

5. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 5.1 The Service Provider shall review the BCDR Plan (and the risk analysis on which it is based):
- 5.1.1 on a regular basis and as a minimum once every six (6) months or as part of a major reconfiguration of the Services or the Service Provider's supply chain;
 - 5.1.2 within three (3) calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 5.1.3 where the Purchaser requests any additional reviews (over and above those provided for in paragraphs 5.1.1 and 5.1.2 by notifying the Service Provider to such effect in writing, whereupon the Service Provider shall conduct such reviews in accordance with the Purchaser's written requirements. Prior to starting its review, the Service Provider shall provide an accurate written estimate of the total costs payable by the Purchaser for the Purchaser's approval. The costs of both Parties of any such additional reviews shall be met by the Purchaser except that the Service Provider shall not be entitled to charge the Purchaser for any costs that it may incur above any estimate without the Purchaser's prior written approval.
- 5.2 Each review of the BCDR Plan pursuant to paragraph 5.1 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Service Provider within the period required by the BCDR Plan or, if no such period is required, within such period as the Purchaser shall reasonably require. The Service Provider shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Purchaser a report (a "Review Report") setting out:

- 5.2.1 the findings of the review;
 - (a) any changes in the risk profile associated with the Services; and
 - (b) the Service Provider's proposals (the "Service Provider's Proposals") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Service Provider can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.
- 5.3 Following receipt of the Review Report and the Service Provider's Proposals, the Purchaser shall:
 - 5.3.1 review and comment on the Review Report and the Service Provider's Proposals as soon as reasonably practicable; and
 - 5.3.2 notify the Service Provider in writing that it approves or rejects the Review Report and the Service Provider's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Purchaser.
- 5.4 If the Purchaser rejects the Review Report and/or the Service Provider's Proposals:
 - 5.4.1 the Purchaser shall inform the Service Provider in writing of its reasons for its rejection; and
 - 5.4.2 the Service Provider shall then revise the Review Report and/or the Service Provider's Proposals as the case may be (taking reasonable account of the Purchaser's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Service Provider's Proposals to the Purchaser for the Purchaser's approval within twenty (20) Working Days of the date of the Purchaser's notice of rejection. The provisions of paragraph 5.3 and this paragraph 5.4 shall apply again to any resubmitted Review Report and Service Provider's Proposals, provided that either Party may refer any disputed matters for resolution in accordance with the procedure outlined in clause 54 (Dispute Resolution).
- 5.5 The Service Provider shall as soon as is reasonably practicable after receiving the Purchaser's approval of the Service Provider's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Service Provider's Proposals. Any such change shall be at the Service Provider's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

6. TESTING OF THE BCDR PLAN

- 6.1 The Service Provider shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 6.2, the Purchaser may require the Service Provider to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Purchaser considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 6.2 If the Purchaser requires an additional test of the BCDR Plan, it shall give the Service Provider written notice and the Service Provider shall conduct the test in accordance with the Purchaser's requirements and the relevant provisions of the BCDR Plan. The Service Provider's costs of the additional test shall be borne by the Purchaser unless the BCDR Plan fails the additional test in which case the Service Provider's costs of that failed test shall be borne by the Service Provider.
- 6.3 The Service Provider shall undertake and manage testing of the BCDR Plan in full consultation with the Purchaser and shall liaise with the Purchaser in respect of the planning, performance,

and review, of each test, and shall comply with the reasonable requirements of the Purchaser in this regard. Each test shall be carried out under the supervision of the Purchaser or its nominee.

- 6.4 The Service Provider shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Purchaser. Copies of live test data used in any such testing shall be (if so required by the Purchaser) destroyed or returned to the Purchaser on completion of the test.
- 6.5 The Service Provider shall, within twenty (20) Working Days of the conclusion of each test, provide to the Purchaser a report setting out:
 - 6.5.1 the outcome of the test;
 - 6.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 6.5.3 the Service Provider's proposals for remedying any such failures.
- 6.6 Following each test, the Service Provider shall take all measures requested by the Purchaser, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Service Provider, at no additional cost to the Purchaser, by the date reasonably required by the Purchaser and set out in such notice.
- 6.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Service Provider of any of its obligations under this Contract.
- 6.8 The Service Provider shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Purchaser.

7. INVOCATION OF THE BCDR PLAN

In the event of a complete loss of service or in the event of a Disaster, the Service Provider shall immediately invoke the BCDR Plan (and shall inform the Purchaser promptly of such invocation along with the anticipated maximum period of outage). In all other instances the Service Provider shall invoke or test the BCDR Plan only with the prior written consent of the Purchaser.

This and the following [] pages comprise Schedule 12 to the foregoing Contract between the Purchaser and Vodafone Ltd.

SCHEDULE 12 SECURITY MANAGEMENT

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

“Security Policy Framework” means the Security Policy Framework published by the Cabinet Office as updated from time to time including any details notified by the Purchaser to the Service Provider.

“Security Tests” means tests carried out where relevant in accordance with the CHECK Scheme or to an equivalent standard to validate the Security Plan and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

2. SECURITY ARRANGEMENTS

2.1 Both Parties shall provide a reasonable level of access to any members of their personnel for the purposes of designing, implementing and managing security in relation to the Services.

2.2 The Service Provider shall ensure the up-to-date maintenance of a suitable security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Purchaser.

3. SECURITY PLAN

3.1 Within twenty (20) Working Days after the Commencement Date, the Service Provider shall prepare and submit to the Purchaser for approval in accordance with paragraph 3.3 a fully developed, complete and up-to-date Security Plan which shall comply with the requirements of paragraph 3.2.

3.2 The Security Plan shall:

3.2.1 meet the relevant standards in ISO/IEC 27001:2013 and ISO/IEC 27002 in accordance with paragraph 6 and, where not specifically addressed by these standards, ensure that controls are in place to combat common threats as described in the Cyber Essentials scheme (such as the “5 technical controls”);

3.2.2 at all times provide a level of security which:

- (a) is in accordance with Law and this Contract;
- (b) as a minimum demonstrates Good Industry Practice;
- (c) addresses issues of incompatibility with the Service Provider’s own organisational security policies;
- (d) meets any specific security threats of immediate relevance to the Services and/or the Purchaser Data;

- (e) complies with the security requirements as set out in Schedule 1 (*Specification and Service Levels*);
 - (f) complies with the Purchaser's IT policies; and
 - (g) is in accordance with the Security Policy Framework;
- 3.2.3 document the security incident management processes and incident response plans applicable to the Services;
- 3.2.4 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Services of any new threat, vulnerability or exploitation technique of which the Service Provider becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Purchaser approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy;
- 3.2.5 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Service Provider;
- 3.2.6 detail the process for managing any security risks from Sub-contractors and third parties authorised by the Purchaser with access to the Services, processes associated with the delivery of the Services, the Purchaser Property, the sites used by the Service Provider to deliver the Services, the Service Provider's System, the Purchaser's System (to the extent that it is under the control of the Service Provider) and any IT, information and data (including the Purchaser Confidential Information and the Purchaser Data) and any system that could directly or indirectly have an impact on that information, data and/or the Services;
- 3.2.7 unless otherwise specified by the Purchaser in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Purchaser Property, the sites used by the Service Provider to deliver the Services, the Service Provider's System, the Purchaser's System (to the extent that it is under the control of the Service Provider) and any IT, information and data (including the Purchaser Confidential Information and the Purchaser Data) to the extent used by the Purchaser or the Service Provider in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Services;
- 3.2.8 set out the security measures to be implemented and maintained by the Service Provider in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Schedule;
- 3.2.9 demonstrate that the solution has minimised the Purchaser and Service Provider effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offerings from the G-Cloud catalogue);
- (a) cross referencing if necessary to other Schedules which cover specific areas included within standards ISO/IEC 27001:2013 and ISO/IEC 27002;
 - (b) be written in plain English in language which is readily comprehensible to the staff of the Service Provider and the Purchaser engaged in the Services and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule; and

(c) be in accordance with the Security Policy Framework.

3.3 The Service Provider shall update the Security Plan in accordance with any comments from the Purchaser, and shall review and revise the Security Plan regularly (or as per such other time period as agreed between the Parties) all in accordance with Paragraph 4 (such updates shall incorporate any comments received from the Purchaser).

3.4 The Service Provider shall deliver all Services in accordance with the Security Plan.

4. AMENDMENT AND REVISION OF THE SECURITY PLAN

4.1 The Security Plan shall be fully reviewed and updated by the Service Provider regularly to reflect:

4.1.1 emerging changes in Good Industry Practice;

4.1.2 any change or proposed change to the IT Environment, the Services and/or associated processes;

4.1.3 any new perceived or changed security threats; and

4.1.4 any reasonable change in requirement requested by the Purchaser.

4.2 The Service Provider shall provide the Purchaser with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Purchaser. The results of the review shall include, without limitation:

4.2.1 suggested improvements to the effectiveness of the Security Plan;

4.2.2 updates to the risk assessments;

4.2.3 proposed modifications to respond to events that may impact on the Security Plan including the security incident management process, incident response plans and general procedures and controls that affect information security; and

4.2.4 suggested improvements in measuring the effectiveness of controls.

4.3 Subject to paragraph 4.4, any change which the Service Provider proposes to make to the Security Plan (as a result of a review carried out pursuant to paragraph 4.1, a Purchaser request, a change to Schedule 1 (*Specification [and Service Levels]*) or otherwise) shall be subject to the Change Control Procedure and shall not be implemented until approved in writing by the Purchaser.

4.4 The Purchaser may, where it is reasonable to do so, approve and require changes or amendments to the Security Plan to be implemented on timescales faster than set out in the Change Control Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Change Control Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Contract.

5. SECURITY TESTING

5.1 The Service Provider shall conduct relevant Security Tests from time to time (and at least annually). Security Tests shall be designed and implemented by the Service Provider so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Purchaser. Subject to compliance by the Service Provider with the foregoing requirements, if any Security Tests adversely affect the Service Provider's ability to deliver the Services so as to meet the Service Levels, the

Service Provider shall be granted relief against any resultant under-performance for the period of the Security Tests.

5.2 The Service Provider shall provide the Purchaser with the results of such tests (in a form approved by the Purchaser in advance) as soon as practicable after completion of each Security Test.

5.3 Where any Security Test carried out reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Service Provider shall promptly notify the Purchaser of any changes to the Security Plan (and the implementation thereof) which the Service Provider proposes to make in order to correct such failure or weakness. Subject to the Purchaser's prior written approval, the Service Provider shall implement such changes to the Security Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Purchaser or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Plan is to address a non-compliance with the security requirements (as set out in Schedule 1 (*Specification [and Service Levels]*)) or the requirements of this Schedule, the change to the Security Plan shall be at no cost to the Purchaser.

5.4 If any repeat Security Test carried out pursuant to paragraph 5.3 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall be deemed to constitute a material Default that is capable of remedy.

6. SECURITY PLAN COMPLIANCE

6.1 The Purchaser shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the Security Plan maintains compliance with the principles and practices of ISO 27001, the specific security requirements set out in Schedule 1 (*Specification and Service Levels*) and the Baseline Security Requirements.

6.2 If, on the basis of evidence provided by such audits, it is the Purchaser's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001:2013, the specific security requirements set out in Schedule 1 (*Specification and Service Levels*) and/or the Baseline Security Requirements is not being achieved by the Service Provider, then the Purchaser shall notify the Service Provider of the same and give the Service Provider a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement any necessary remedy. If the Service Provider does not become compliant within the required time then the Purchaser shall have the right to obtain an independent audit against these standards in whole or in part.

6.3 If, as a result of any such independent audit as described in paragraph 6.2 the Service Provider is found to be non-compliant with the principles and practices of ISO/IEC 27001:2013, the specific security requirements set out in Schedule 1 (*Specification and Service Levels*) and/or the Baseline Security Requirements then the Service Provider shall, at its own expense, immediately undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Purchaser in obtaining such audit.

7. BREACH OF SECURITY

7.1 Each Party shall notify the other in accordance with the agreed security incident management process as defined by the Security Plan upon becoming aware of any Breach of Security or attempted Breach of Security.

7.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 7.1, the Service Provider shall:

7.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Purchaser) necessary to:

- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
- (b) remedy such Breach of Security to the extent possible and protect the integrity of the Purchaser's System and the Service Provider's System to the extent within its control against any such Breach of Security or attempted Breach of Security;
- (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and, provided that reasonable testing has been undertaken by the Service Provider, if the mitigation adversely affects the Service Provider's ability to deliver the Services so as to meet the Service Levels (if applicable), the Service Provider shall be granted relief against any resultant under-performance for such period as the Purchaser, acting reasonably, may specify by written notice to the Service Provider;
- (d) prevent a further Breach of Security or attempted Breach of Security in the future exploiting the same root cause failure; and
- (e) supply any requested data to the Purchaser within two (2) Working Days of the Purchaser's request and without charge (where such requests are reasonably related to a possible incident or compromise); and

7.2.2 as soon as reasonably practicable provide to the Purchaser full details (using the reporting mechanism defined by the Security Plan) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Purchaser.

7.3 If any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Plan with the security requirements as set out in Schedule 1 (*Specification and Service Levels*) or the requirements of this Schedule, then any required change to the Security Plan shall be at no cost to the Purchaser.

8. VULNERABILITES AND CORRECTIVE ACTION

8.1 The Purchaser and the Service Provider acknowledge that from time to time vulnerabilities in the Purchaser's System, the Service Provider's System and the Services will be discovered which unless mitigated will present an unacceptable risk to the Purchaser's information, including Purchaser Data.

8.2 The severity of threat vulnerabilities for the Services shall be categorised by using an appropriate vulnerability scoring systems including:

8.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and/or

8.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.

8.3 The Service Provider shall ensure the application of security patches to vulnerabilities in a timely and prioritised manner.

8.4 The Service Provider shall ensure all COTS Software is upgraded within six (6) months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term.

- 8.5 The Service Provider shall:
- 8.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Government Body;
 - 8.5.2 ensure that the Purchaser's System and the Service Provider's System (to the extent within the control of the Service Provider) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
 - 8.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the Purchaser's System, the Service Provider's System and the Services by actively monitoring the threat landscape during the Term;
 - 8.5.4 pro-actively scan the Purchaser's System and the Service Provider's System (to the extent within the control of the Service Provider) for vulnerable components and address discovered vulnerabilities through the processes described in the Security Plan as developed under paragraph 3.2.1;
 - 8.5.5 from the date specified in the Security Management Plan (and before the first Operational Service Commencement Date) provide a report to the Purchaser within five (5) Working Days of the end of each month detailing both patched and outstanding vulnerabilities in the Purchaser's System and the Service Provider's System (to the extent within the control of the Service Provider) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
 - 8.5.6 propose interim mitigation measures to vulnerabilities in the Purchaser's System, and the Service Provider's System known to be exploitable where a security patch is not immediately available;
 - 8.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the Purchaser's System and the Service Provider's System); and
 - 8.5.8 inform the Purchaser when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the Services, the Purchaser's System and the Service Provider's System and provide initial indications of possible mitigations.
- 8.6 If the Service Provider is unlikely to be able to mitigate the vulnerability within a timely manner under paragraph 8, the Service Provider shall immediately notify the Purchaser.

This and the following [] pages comprise Schedule 13 to the foregoing Contract between the Purchaser and Vodafone Ltd

SCHEDULE 13 – CYBER SECURITY REQUIREMENTS

Definitions

The defined terms used in this Schedule 13 shall have the following meanings:

“**Cyber Security Incident**” means anything, event, act or omission which gives, or may give, rise to:

- (i) unauthorised access to any information system, data or electronic communications network (including breach of an applicable security policy);
- (ii) reduced integrity of an information system, data or electronic communications network;
- (iii) unauthorised use of any information system or electronic communications network for the processing (including storing) of data;
- (iv) disruption or change of the operation (including takeover of control, malicious disruption and/or denial of service) of an information system or electronic communications network;
- (v) unauthorised changes to firmware, software or hardware;
- (vi) unauthorised destruction, damage, deletion or alteration of data residing in an information system or electronic communications network;
- (vii) removal or limiting the availability of, or possibility to use, data residing in an information system or electronic communications network;
- (viii) the appropriation, publication, dissemination or any other use of data by persons unauthorised to do so; or
- (ix) a breach of the Computer Misuse Act 1990, the Network and Information Systems Regulations 2018, the GDPR or the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003, the Official Secrets Act 1911 to 1989, or any other applicable legal requirements in connection with cybersecurity and/or privacy

in connection with the Services and/or the Contract;

- (a) “**Cyber Security Requirements**” means the Purchaser’s requirements in connection with cyber security as set out in Section A of the Annex to this Schedule 13

1. SERVICE PROVIDER’S WARRANTY

The Service Provider warrants and undertakes that it shall meet and comply with the Cyber Security Requirements in connection with the provision of the Services and the Contract (including in respect of any certification or accreditation).

2. SERVICE PROVIDER’S OBLIGATIONS

2.1 The Service Provider shall implement and maintain all security measures:

- (a) as may be required under applicable laws (including the Network and Information Systems Regulations 2018);
- (b) to enable it to discharge its obligations under this Schedule 13; and
- (c) to ensure there are no Cyber Security Incidents

in all cases to the Purchaser’s reasonable satisfaction and in accordance with Good Industry Practice.

2.2 The Service Provider shall notify the Purchaser promptly of any changes in its ability to meet the Cyber Security Requirements, including any changes to certifications and accreditations.

2.3 The Service Provider shall assist the Purchaser to comply with any applicable cyber security requirements, codes, policies and practices in connection with the Services / and or Framework.

3 CYBER SECURITY INCIDENTS

3.1 The Service Provider shall notify the Purchaser immediately as soon as it knows or believes that a Cyber Security Incident has or may have taken place and shall provide full details of the incident and any mitigation measures already taken and intended to be taken by it and (where applicable) any mitigation measures recommended by it to be taken by the Purchaser. Where such initial notification is not in writing, then the Service Provider shall provide the Purchaser with a written notification setting out the details required under this paragraph 6.1 promptly and in any case within twelve (12) hours from the initial notification.

3.2 Following a Cyber Security Incident, the Service Provider shall:

- (a) use its best endeavours to mitigate the impact of the Cyber Security Incident;
- (b) investigate the Cyber Security Incident completely and promptly, and shall keep the Purchaser fully informed of the progress and findings of its investigation;
- (c) where required to do so, inform any applicable regulator of the Cyber Security Incident; and
- (d) take any action deemed necessary by the Purchaser in the circumstances, including complying with any additional security measures deemed appropriate by the Purchaser.

3.3 The Service Provider shall perform its obligations under this paragraph 3 at no additional charge to the Purchaser, unless it can show that the Cyber Security Incident was caused solely by an act or omission of the Purchaser.

4 INFORMATION AND AUDIT

4.1 Promptly upon request, the Service Provider shall provide to the Purchaser such information and records in connection with the Service Provider's obligations under this Schedule 13 as the Purchaser may request.

4.2 The Service Provider agrees (and procures that its sub-contractors agree) that the Purchaser, its agents and its representatives may conduct such audits as are considered necessary by the Purchaser acting reasonably, including for the following purposes:

- (a) to ascertain the impact of any Cyber Security Incident;
- (b) to review and verify the integrity, confidentiality and security of any data relating to the Contract; or
- (c) to review the Service Providers and/or any sub-contractor's compliance with its obligations under this Schedule 13.

4.3 The Service Provider shall (and shall ensure that any sub-contractor shall) provide the Purchaser, its agents and representatives with all reasonable co-operation and assistance in relation to audits, including:

- (a) all data and/or records requested by the Purchaser;

- (b) access to any relevant premises and to any equipment owned/controlled by the Service Provider, any associated or group company and any sub-contractor and, where such premises and/or equipment are outwith the control of the Service Provider, shall secure sufficient rights of access for the Purchaser, its agents and representatives as are necessary to allow audits to take place; and
- (c) access to any relevant individuals.

4.4 The Purchaser shall use its reasonable endeavours to:

- (a) provide at least 10 days' notice of its intention to conduct an audit (but is not obliged to do so); and
- (b) ensure that the conduct of each audit does not unreasonably disrupt the Service Provider and/or sub-contractor or delay the performance of the Contract.

4.5 The parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 4 [unless an audit identifies a breach of the terms of this Schedule 13 by the Service Provider and/or sub-contractor, in which case the Service Provider shall reimburse the Purchaser on demand for all the Purchaser's reasonable costs and expenses incurred in conducting the audit].

5 BREACH OF CYBER SECURITY REQUIREMENTS

5.1 A breach of this Schedule 13 by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).

5.2 If the Service Provider fails to comply with the provisions of this Schedule 13, the Purchaser may take any action it considers appropriate or necessary (and the Service Provider shall comply with the Purchaser's requests in this respect), including:

- (a) suspending the whole or any part of the Service Provider's obligations under the Contract;
- (b) requiring that specific sub-contractors connected with such breach be removed from their involvement with the Services and the Contract and cease to have any access to the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract;
- (c) requesting the Service Provider return and/or arrange the evidenced secure and permanent destruction of the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract; and
- (d) implementing additional or alternative measures, both technical and organisational, to protect and secure the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract.

**ANNEX
CYBER SECURITY REQUIREMENTS**

The cyber security requirements applicable to the Contract are set out in this Annex. Section A (Cyber Security Requirements) includes the Purchaser's requirements in connection with cyber security

Section A: Cyber Security Requirements

Overview of requirements:

Certification requested for assurance purposes	<ul style="list-style-type: none">• Cyber Essentials or Cyber Essentials Plus or equivalent - within 12 months• ISO 27001:2013 or equivalent - immediate
Supporting evidence required	<ul style="list-style-type: none">• Copies of certification may be required
Purchaser's risk management approach	<ul style="list-style-type: none">• ISO 27001:2013 or equivalent is a minimum requirement and may be considered pass / fail• Commitment to work with the Purchaser to achieve Cyber Essentials or Cyber Essentials Plus or equivalent - within 12 months

The Service Provider shall meet the following requirements:

The requirements listed in:

- Schedule 1 (Specification and Service Levels) of the Framework Agreement, sections
 - Paragraph 3.2.10 (Device disposal and Management)
 - Paragraph 20 (Service Levels)
 - Paragraph 22 (Malicious Software)
 - Paragraph 23 (ISMS and Cyber Resilience)

[THE PURCHASER MAY AMEND THE REQUIREMENTS LISTED ABOVE AT CALL OFF STAGE]

This and the following [] pages comprise Schedule 6 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 6 – NOT USED

This page and the following 2 pages comprise comprises Schedule 7 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 7 – TRANSPARENCY REPORTS AND SERVICE PROVIDER SENSITIVE INFORMATION

Part 1- Transparency Reports

The Authority will routinely publish information in relation to the Framework, this information will be released in Transparency Reports. An example of the type and frequency of the information is as follows:

TRANSPARENCY REPORTS (to be completed by the Authority within 3 months of Contract Award)

TITLE	CONTENT	FORMAT	FREQUENCY
<i>(Performance)</i>			
<i>(Charges)</i>			
<i>(Major subService Providers)</i>			
<i>(Technical)</i>			
<i>(Performance management)</i>			

SERVICE PROVIDER SENSITIVE INFORMATION - please see below.

REDACTED

This page comprises Schedule 8 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 8 – Exit Strategy

1. Contract re-tender and re-negotiation

The Service Provider shall carry out services necessary to allow Authority to undertake the competitive re-bid of a framework agreement, or to take over the provision of the Services itself. These services cover:

[].

2. Assistance with termination

2.1 The Exit Plan shall be produced and delivered by the Service Provider to the Authority in accordance with the steps defined in clause 44.2.

2.2 The Service Provider shall throughout the period of the Framework Agreement, maintain and continuously update the Exit Plan which shall include the contents listed in clause 44.3.

3. Post termination

In accordance with clause 50 (Consequences of termination), following the termination of the Framework Agreement the Service Provider shall return to the Authority all Authority Property and Authority Protected Information in the Service Provider's possession and destroy or delete any copies of Authority Protected Information (whether physical or electronic) in its possession, and a duly authorised officer of the Service Provider shall certify that this has been done.

This and the following [] page(s) comprise Schedule 9 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 9 – DATA PROTECTION

Guidance notes: This schedule is only required in the event that data is processed in connection with the framework. Otherwise,

Not Used.

This page comprises Schedule 10 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 10 – APPROVED SUB-CONTRACTORS

approved Sub-contractors

1. Orbis Protect Ltd

Relevant obligations

Vodafone's managed service partner when supplying the core functionality for the Lone Worker solution.

This and the following 3 pages comprise Schedule 11 to the Framework Agreement between the Scottish Ministers and Vodafone Ltd.

SCHEDULE 11 – CYBER SECURITY REQUIREMENTS

Definitions

The defined terms used in this Schedule 11 shall have the following meanings:

“Cyber Security Incident” means anything, event, act or omission which gives, or may give, rise to:

- (x) unauthorised access to any information system, data or electronic communications network (including breach of an applicable security policy);
- (xi) reduced integrity of an information system, data or electronic communications network;
- (xii) unauthorised use of any information system or electronic communications network for the processing (including storing) of data;
- (xiii) disruption or change of the operation (including takeover of control, malicious disruption and/or denial of service) of an information system or electronic communications network;
- (xiv) unauthorised changes to firmware, software or hardware;
- (xv) unauthorised destruction, damage, deletion or alteration of data residing in an information system or electronic communications network;
- (xvi) removal or limiting the availability of, or possibility to use, data residing in an information system or electronic communications network;
- (xvii) the appropriation, publication, dissemination or any other use of data by persons unauthorised to do so; or
- (xviii) a breach of the Computer Misuse Act 1990, the Network and Information Systems Regulations 2018, the GDPR or the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003, the Official Secrets Act 1911 to 1989, or any other applicable legal requirements in connection with cybersecurity and/or privacy

in connection with the Services and/or the Contract;

- (b) **“Cyber Security Requirements”** means the Authority’s requirements in connection with cyber security as set out in Section A of the Annex to this Schedule 11

3. SERVICE PROVIDER’S WARRANTY

The Service Provider warrants and undertakes that it shall meet and comply with the Cyber Security Requirements in connection with the provision of the Services and the Contract (including in respect of any certification or accreditation).

4. SERVICE PROVIDER’S OBLIGATIONS

5.3 The Service Provider shall implement and maintain all security measures:

- (a) as may be required under applicable laws (including the Network and Information Systems Regulations 2018);
- (b) to enable it to discharge its obligations under this Schedule 11; and
- (c) to ensure there are no Cyber Security Incidents

in all cases to the Authority’s reasonable satisfaction and in accordance with Good Industry Practice.

5.4 The Service Provider shall notify the Authority promptly of any changes in its ability to meet the Cyber Security Requirements, including any changes to certifications and accreditations.

5.5 The Service Provider shall assist the Authority to comply with any applicable cyber security requirements, codes, policies and practices in connection with the Services / and or Framework.

6 CYBER SECURITY INCIDENTS

6.1 The Service Provider shall notify the Authority immediately as soon as it knows or believes that a Cyber Security Incident has or may have taken place and shall provide full details of the incident and any mitigation measures already taken and intended to be taken by it and (where applicable) any mitigation measures recommended by it to be taken by the Authority. Where such initial notification is not in writing, then the Service Provider shall provide the Authority with a written notification setting out the details required under this paragraph 6.1 promptly and in any case within twelve (12) hours from the initial notification.

6.2 Following a Cyber Security Incident, the Service Provider shall:

- (e) use its best endeavours to mitigate the impact of the Cyber Security Incident;
- (f) investigate the Cyber Security Incident completely and promptly, and shall keep the Authority fully informed of the progress and findings of its investigation;
- (g) where required to do so, inform any applicable regulator of the Cyber Security Incident; and
- (h) take any action deemed necessary by the Authority in the circumstances, including complying with any additional security measures deemed appropriate by the Authority.

6.3 The Service Provider shall perform its obligations under this paragraph 3 at no additional charge to the Authority, unless it can show that the Cyber Security Incident was caused solely by an act or omission of the Authority.

7 INFORMATION AND AUDIT

7.1 Promptly upon request, the Service Provider shall provide to the Authority such information and records in connection with the Service Provider's obligations under this Schedule 11 as the Authority may request.

7.2 The Service Provider agrees (and procures that its sub-contractors agree) that the Authority, its agents and its representatives may conduct such audits as are considered necessary by the Authority acting reasonably, including for the following purposes:

- (d) to ascertain the impact of any Cyber Security Incident;
- (e) to review and verify the integrity, confidentiality and security of any data relating to the Contract; or
- (f) to review the Service Providers and/or any sub-contractor's compliance with its obligations under this Schedule 11.

7.3 The Service Provider shall (and shall ensure that any sub-contractor shall) provide the Authority, its agents and representatives with all reasonable co-operation and assistance in relation to audits, including:

- (d) all data and/or records requested by the Authority;
- (e) access to any relevant premises and to any equipment owned/controlled by the Service Provider, any associated or group company and any sub-contractor and, where such

premises and/or equipment are outwith the control of the Service Provider, shall secure sufficient rights of access for the Authority, its agents and representatives as are necessary to allow audits to take place; and

- (f) access to any relevant individuals.

7.4 The Authority shall use its reasonable endeavours to:

- (c) provide at least 10 days' notice of its intention to conduct an audit (but is not obliged to do so); and
- (d) ensure that the conduct of each audit does not unreasonably disrupt the Service Provider and/or sub-contractor or delay the performance of the Contract.

7.5 The parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 4 [unless an audit identifies a breach of the terms of this Schedule 11 by the Service Provider and/or sub-contractor, in which case the Service Provider shall reimburse the Authority on demand for all the Authority's reasonable costs and expenses incurred in conducting the audit].

8 BREACH OF CYBER SECURITY REQUIREMENTS

8.1 A breach of this Schedule 11 by the Service Provider is a material breach for the purposes of clause 42.1.3 (Termination Rights).

8.2 If the Service Provider fails to comply with the provisions of this Schedule 11, the Authority may take any action it considers appropriate or necessary (and the Service Provider shall comply with the Authority's requests in this respect), including:

- (e) suspending the whole or any part of the Service Provider's obligations under the Contract;
- (f) requiring that specific sub-contractors connected with such breach be removed from their involvement with the Services and the Contract and cease to have any access to the Authority's Protected Information and any Personal Data Processed in connection with the Services under the Contract;
- (g) requesting the Service Provider return and/or arrange the evidenced secure and permanent destruction of the Authority's Protected Information and any Personal Data Processed in connection with the Services under the Contract; and
- (h) implementing additional or alternative measures, both technical and organisational, to protect and secure the Authority's Protected Information and any Personal Data Processed in connection with the Services under the Contract.

**ANNEX
CYBER SECURITY REQUIREMENTS**

The cyber security requirements applicable to the Contract are set out in this Annex. Section A (Cyber Security Requirements) includes the Authority's requirements in connection with cyber security

Section A: Cyber Security Requirements

Overview of requirements:

Certification requested for assurance purposes	<ul style="list-style-type: none">• Cyber Essentials or Cyber Essentials Plus or equivalent - within 12 months• ISO 27001:2013 or equivalent - immediate
Supporting evidence required	<ul style="list-style-type: none">• Copies of certification may be required
Authority's risk management approach	<ul style="list-style-type: none">• ISO 27001:2013 or equivalent is a minimum requirement and may be considered pass / fail• Commitment to work with the Authority to achieve Cyber Essentials or Cyber Essentials Plus or equivalent - within 12 months

The Service Provider shall meet the following requirements:

The requirements listed in:

- Schedule 1 (Specification and Service Levels) sections
 - Paragraph 3.2.10 (Device disposal and Management)
 - Paragraph 20 (Service Levels)
 - Paragraph 22 (Malicious Software)
 - Paragraph 23 (ISMS and Cyber Resilience)