December 2021

1. NETLINK STAR INFRASTRUCTURE LIMITED
2. QUROSERV UK PLC

Agreement

Relating to Data Centre Transition Migrate & Operate Services Ref:

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**THIS AGREEMENT** is made on 2021

**BETWEEN**

1. **NETLINK STAR INFRASTRUCTURE LIMITED** a company registered in England and Wales under company number 0299997 whose registered office is at 1 Elysian Street, London EE7 2DN (“**Netlink Star**”); and
2. **QUROSERV UK PLC** a company registered in England and Wales under company number 00666665 whose registered office is at Blotten Vu, Woking, Surrey, KR98 6DB (the “**Supplier**”)

(each a “**Party**” and together the “**Parties**”).

**INTRODUCTION**

1. Netlink Star has procured 2 new data halls to enable a fresh new hosting environment and has already procured the design and part build. The Transition, Migration and Operation of a new modern data centre will meet Netlink Star’s current and future requirements.
2. The Supplier is a leading provider of digital transformation, innovation and value creation and has experience in delivering projects similar to the Transition, Migrate and Operate requirements of Netlink Star to deliver their modern Data Centre.
3. The Parties have agreed to contract with each other in accordance with the terms and conditions set out below.

**IT IS AGREED** as follows:

**SECTION A - PRELIMINARIES**

**OPERATIVE PROVISIONS**

# DEFINITIONS AND INTERPRETATION

## In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.

## In this Agreement, unless the context otherwise requires:

### the singular includes the plural and vice versa;

### reference to a gender includes the other gender and the neuter;

### references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity;

### a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

### any references to “re-enacted” in respect of any statute or statutory provision (including any subordinate legislation) include references to the preservation, continuation of effect, conversion or incorporation of any of them into the law of England and Wales, Scotland and Northern Ireland;

### the words “**including**”, “**other**”, “**in particular**”, “**for example**” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;

### references to “**writing**” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;

### the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;

### unless otherwise provided and save for references in Annexes 1 to 3 of Schedule 5 (Software), references to clauses and Schedules are references to the clauses and Schedules of this Agreement and references in any Schedule to Paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear; and

### references to this Agreement are references to this Agreement as amended from time to time.

## Netlink Star shall not be deemed to be in Default pursuant to this Agreement to the extent that any such Default is due to the Default of the Supplier.

## Where a standard, policy or document is referred to in this Agreement by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify Netlink Star and the Parties shall update this Agreement with a reference to the replacement hyperlink.

## If there is any conflict between the clauses and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

### the clauses and Schedule 1 *(*Definitions);

### Schedules 2.1 (Services Description) and 2.2 (Service Levels) and their Annexes;

### any other Schedules and their Annexes (other than Schedule 4.1 (Supplier Solution) and its Annexes); and

### Schedule 4.1 (Supplier Solution) and its Annexes (if any).

## The Schedules and their Annexes form part of this Agreement.

## Wherever under this Agreement Netlink Star’s consent is required before the Supplier is permitted to do a particular act or thing, unless otherwise expressly provided, Netlink Star is entitled to give or withhold consent or make consent subject to conditions at its sole discretion.

# DUE DILIGENCE

## The Supplier acknowledges that, subject to the Allowable Assumptions:

### Netlink Star has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Agreement;

### it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;

### it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with Netlink Star before the Effective Date) of all relevant details relating to:

#### Netlink Star Requirements;

#### the suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;

#### the operating processes and procedures and the working methods of Netlink Star;

#### the ownership, functionality, capacity, condition and suitability for use in the Services of the Netlink Star Assets; and

#### the existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Agreement and/or which the Supplier will require the benefit of for the provision of the Services; and

### it has advised Netlink Star in writing of:

#### each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;

#### the actions needed to remedy each such unsuitable aspect; and

#### a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

and such actions, timetable and costs are fully reflected in this Agreement, including the Services Description and/or Netlink Star Responsibilities as applicable.

## The Supplier shall not be excused from the performance of any of its obligations under this Agreement on the grounds of, nor, subject to clause 2.3, shall the Supplier be entitled to recover any additional costs or charges, arising as a result of:

### any unsuitable aspects of the Operating Environment;

### any misinterpretation of the Netlink Star Requirements; and/or

### any failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

## The Parties shall comply with the provisions of Paragraph 6 of Part C of Schedule 7.1 (Charges and Invoicing) in relation to the verification of any Allowable Assumptions.

# WARRANTIES

## Netlink Star represents and warrants that:

### it has full capacity and authority to enter into and to perform this Agreement;

### this Agreement is executed by its duly authorised representative;

### there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Agreement; and

### its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).

## The Supplier represents and warrants that:

### it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

### it has full capacity and authority to enter into and to perform this Agreement;

### this Agreement is executed by its duly authorised representative;

### it has all necessary consents and regulatory approvals to enter into this Agreement;

### there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Agreement;

### its execution, delivery and performance of its obligations under this Agreement will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;

### its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);

### all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including its response to the PQQ and ITT (if applicable), its tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Supplier has otherwise disclosed to Netlink Star in writing prior to the date of this Agreement;

### it has notified Netlink Star in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;

### it has all necessary rights in and to any Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to Netlink Star which are necessary for the performance of the Supplier’s obligations under this Agreement and/or the receipt of the Services by Netlink Star;

### the Contract Inception Report is a true and accurate reflection of the Costs and Supplier Profit Margin forecast by the Supplier and the Supplier does not have any other internal financial model in relation to the Services inconsistent with the Financial Model;

### it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement; and

### 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 Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier’s assets or revenue.

## The representations and warranties set out in clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Agreement) by reference to the facts then existing.

## Each of the representations and warranties set out in clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Agreement.

## If at any time a Party becomes aware that a representation or warranty given by it under clause 3.1 or 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

## For the avoidance of doubt, the fact that any provision within this Agreement is expressed as a warranty shall not preclude any right of termination which Netlink Star may have in respect of breach of that provision by the Supplier.

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

**SECTION B – THE SERVICES**

# TERM

## This Agreement shall:

### come into force on the Effective Date, save for clauses 1 (Definitions and Interpretation), 3 (Warranties), 4 (Term), 24 (Confidentiality), 25 (Freedom of Information), 26.1 (Publicity and Branding), 28 (Limitations on Liability), 41 (Waiver and Cumulative Remedies), 42 (Relationship of the Parties), 44 (Severance), 46 (Entire Agreement), 47 (Third Party Rights), 48 (Notices), 49 (Disputes) and 50 (Governing Law and Jurisdiction), which shall be binding and enforceable as between the Parties from the date of signature; and

### unless terminated at an earlier date by operation of Law or in accordance with clause 36 (Termination Rights), terminate:

#### at the end of the Initial Term; or

#### if Netlink Star elects to extend the Initial Term by giving the Supplier at least six (6) months’ notice before the end of the Initial Term, at the end of the Extension Period; or

#### if Netlink Star elects to extend any Extension Period by giving the Supplier at least six (6) months’ notice before the end of an Extension Period, at the end of the final Extension Period,

provided that the aggregate duration of the Initial Term and any Extension Periods shall be no longer than 5 years.

Condition Precedent

## Save for clauses 1 (Definitions and Interpretation), 3 (Warranties), 4 (Term), 24 (Confidentiality), 25 (Freedom of Information), 26.1 (Publicity and Branding), 28 (Limitations on Liability), 41 (Waiver and Cumulative Remedies), 42 (Relationship of the Parties), 44 (Severance), 46 (Entire Agreement), 47 (Third Party Rights), 48 (Notices), 49 (Disputes) and 50 (Governing Law and Jurisdiction), this Agreement is conditional upon the valid execution and delivery to Netlink Star of the Guarantee (the “**Condition Precedent**”) provided that, where the Supplier is not a Subsidiary of another company, there shall be no Condition Precedent. Netlink Star may in its sole discretion at any time agree to waive compliance with the Condition Precedent by giving the Supplier notice in writing.

## The Supplier shall satisfy, or procure the satisfaction of, the Condition Precedent as soon as possible. In the event that the Condition Precedent is not satisfied within twenty (20) Working Days after the date of this Agreement then, unless the Condition Precedent is not required or is waived by Netlink Star in accordance with clause 4.2:

### this Agreement shall automatically cease and shall not come into effect; and

### neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.

## The Supplier shall consult with Netlink Star in relation to the steps it takes to satisfy the Condition Precedent set out in clause 4.2 and shall keep Netlink Star fully informed of its progress in satisfying the Condition Precedent and of any circumstances which are likely to result in the condition not being satisfied by the date set out in clause 4.3.

## Notwithstanding anything to the contrary in this Agreement, the Parties (including clause 4.2) acknowledge and agree that the Supplier shall not be required to provide a Guarantee for the purposes of this Agreement.

# SERVICES

Standard of Services

## The Supplier shall provide:

### the Transition Services from (and including) the Transition Services Commencement Date;

### the Migration Services from (and including) the Migration Services Commencement Date;

### the Operational Services in each case from (and including) the relevant Operational Service Commencement Date; and

### any Project Services in each case from (and including) the relevant Project Services Commencement Date.

## The Supplier shall ensure that:

### the Services:

#### comply in all respects with the Services Description; and

#### are supplied in accordance with the Supplier Solution and the provisions of this Agreement; and

### where:

#### the Operational Services to be provided from any Operational Service Commencement Date are similar to services that Netlink Star was receiving immediately prior to that Operational Service Commencement Date (such similar services being “**Preceding Services**”); and

#### the standard and level of service received by Netlink Star in respect of any of the Preceding Services in the twelve (12) month period immediately prior to that Operational Service Commencement Date have been disclosed to the Supplier in the Due Diligence Information (such preceding services being “**Relevant Preceding Services**”),

the Operational Services to be provided from the relevant Operational Service Commencement Date that are similar to the Relevant Preceding Services are in each case provided to a standard and level of service which is at least as good as the standard and level of service received by Netlink Star in respect of the Relevant Preceding Services in the twelve (12) month period immediately prior to the relevant Operational Service Commencement Date.

## The Supplier shall:

### perform its obligations under this Agreement, including in relation to the supply of the Services and any Goods in accordance with:

#### all applicable Law;

#### Good Industry Practice;

#### the Standards;

#### the Baseline Security Requirements;

#### the Quality Plans;

#### the Netlink Star IT Strategy; and

#### the Supplier’s own established procedures and practices to the extent the same do not conflict with the requirements of clauses 5.3.1(a) to 5.3.1(f); and

#### deliver the Services using efficient business processes and ways of working having regard to Netlink Star’s obligation to ensure value for money.

## In the event that the Supplier becomes aware of any inconsistency between the requirements of clauses 5.3.1(a) to 5.3.1(f), the Supplier shall immediately notify the Netlink Star Representative in writing of such inconsistency and the Netlink Star Representative shall, as soon as practicable, notify the Supplier which requirement the Supplier shall comply with.

Supplier covenants

## The Supplier shall:

### at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Agreement;

### save to the extent that obtaining and maintaining the same are Netlink Star Responsibilities and subject to clause 15 (Change), obtain, and maintain throughout the duration of this Agreement, 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;

### ensure that:

#### it shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to Netlink Star which are necessary for the performance of the Supplier’s obligations under this Agreement and/or the receipt of the Services by Netlink Star;

#### the release of any new Software or upgrade to any Software complies with the interface requirements in the Services Description and (except in relation to new Software or upgrades which are released to address Malicious Software or to comply with the requirements of Schedule 2.6 (Security Management)) shall notify Netlink Star three (3) months before the release of any new Software or Upgrade;

#### all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;

#### any products or services recommended or otherwise specified by the Supplier for use by Netlink Star in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the Netlink Star Requirements; and

#### the Supplier System and Assets used in the performance of the Services will be free of all encumbrances (except as agreed in writing with Netlink Star), will be compliant with the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 in respect of all Assets made available to Netlink Star by the Supplier;

### minimise any disruption to the Services, the IT Environment and/or Netlink Star’s operations when carrying out its obligations under this Agreement;

### ensure that any Documentation and training provided by the Supplier to Netlink Star are comprehensive, accurate and prepared in accordance with Good Industry Practice;

### co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Agreement for any reason, to enable the timely transition of the Services (or any of them) to Netlink Star and/or to any Replacement Supplier;

### where requested to do so by Netlink Star, enter into and comply with the terms of the Collaboration Agreement or enter into and comply with a collaboration agreement in a substantially similar form to that appended hereto at Appendix 1;

### to the extent it is legally able to do so, hold on trust for the sole benefit of Netlink Star, 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 Netlink Star may notify from time to time to the Supplier;

### unless it is unable to do so, assign to Netlink Star on Netlink Star’s written request and at the cost of the Supplier any such warranties and/or indemnities as are referred to in clause 5.5.8;

### provide Netlink Star with such assistance as Netlink Star may reasonably require during the Term in respect of the supply of the Services;

### gather, collate and provide such information and co-operation as Netlink Star may reasonably request for the purposes of ascertaining the Supplier’s compliance with its obligations under this Agreement;

### notify Netlink Star in writing as soon as reasonably practicable and in any event within one (1) month of any change of Control taking place;

### notify Netlink Star in writing within ten (10) Working Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Agreement;

### ensure that neither it, nor any of its Affiliates, embarrasses Netlink Star or otherwise brings Netlink Star into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in Netlink Star, regardless of whether or not such act or omission is related to the Supplier’s obligations under this Agreement and

### manage closure or termination of Services and end of life of Goods to take account of Netlink Star’s disposal requirements, including recycling and scope for re-use, and all applicable Standards; and

### comply with their respective responsibilities as set out in the RACI Matrix set out in any Project Sheet specific to a Project.

## An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-contractors and Supplier Personnel also do, or refrain from doing, such act or thing.

## Without prejudice to clauses 22.2 and 22.3 (IPRs Indemnity) and any other rights and remedies of Netlink Star howsoever arising, the Supplier shall:

### remedy any breach of its obligations in clauses 5.5.2 to 5.5.4 inclusive within three (3) Working Days of becoming aware of the breach or being notified of the breach by Netlink Star where practicable or within such other time period as may be agreed with Netlink Star (taking into account the nature of the breach that has occurred);

### remedy any breach of its obligations in clause 5.5.1 and clauses 5.5.5 to 5.5.11 inclusive within twenty (20) Working Days of becoming aware of the breach or being notified of the breach by Netlink Star; and

### meet all the costs of, and incidental to, the performance of such remedial work,

and any failure of the Supplier to comply with its obligations under clause 5.7.1 or clause 5.7.2 within the specified or agreed timeframe shall constitute a Notifiable Default.

Software warranty

## Without prejudice to clauses 5.5.15 and 5.7 (Supplier covenants) and any other rights and remedies of Netlink Star howsoever arising, the Supplier warrants to Netlink Star that all components of the Software shall:

### be free from material design and programming errors;

### provide the functionality set out in, and perform in all material respects in accordance, with the relevant specifications contained in the Services Description, the Supplier Solution and the Documentation;

### interface, integrate and interoperate with each other, with any Software as a Service and with the Netlink Star Systems as set out in the Services Description and the Supplier Solution; and

### not infringe any Intellectual Property Rights.

Software as a Service

## In the case of any Software as a Service, such Software may be substituted for another Software as a Service or Service at any point in time and as determined by Netlink Star, in accordance with the following principles (as applicable):

### where:

#### an end of life notice has been issued by the relevant manufacturer; and/or

#### the Software as a Service is no longer going to be supported in the market generally at a reasonable price,

in which case Netlink Star can require the Supplier to replace the Software as a Service with an equivalent or successor software / cloud software which is envisaged to deliver the same or similar output or functionality;

### a new version or release of the Software as a Service has been issued, in which case Netlink Star may require the Supplier to replace the Software as a Service with the new version or release (or equivalent) and/or may simply add the new version or release (or equivalent) as an additional option (as well as the release or version currently set out in the list) for purchase by Netlink Star in accordance with this Agreement;

### a successor software and/or replacement software and/or type of software has been issued to the market, in which case Netlink Star may require the Supplier to replace the Software as a Service with the successor product or replacement product or type of product and/or may simply add the successor software as an additional option for purchase by Netlink Star in accordance with this Agreement, in each case which is envisaged to deliver the same or similar output or functionality; and/or

### a new or evolving or successor technology or type of software has been issued to the market, in which case Netlink Star can add such new or evolving or successor technology or type of software to the existing Software as a Service, in each case which is envisaged to deliver the same or similar output or functionality.

Continuing obligation to provide the Services

## The Supplier shall continue to perform all of its obligations under this Agreement and shall not suspend the supply of the Services, notwithstanding:

### any withholding of the Service Charges by Netlink Star pursuant to clause 8.2.3(b) (Performance Failures*)*;

### the existence of an unresolved Dispute; and/or

### any failure by Netlink Star to pay any Charges,

unless the Supplier is entitled to terminate this Agreement under clause 36.3.1 (Termination by the Supplier) for failure to pay undisputed Charges.

Optional Services

## Netlink Star may require the Supplier to provide any or all of the Optional Services at any time by giving notice to the Supplier in writing. The Supplier acknowledges that Netlink Star is not obliged to take any Optional Services from the Supplier and that nothing shall prevent Netlink Star from receiving services that are the same as or similar to the Optional Services from any third party.

## If a Change Request is submitted, the Supplier shall, as part of the Impact Assessment provided by the Supplier in relation to such Change Request, provide details of the impact (if any) that the proposed Change will have on the relevant Optional Services.

## Following receipt of Netlink Star’s notice pursuant to clause 5.11:

### the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with the Change Control Procedure, modified to reflect the fact that the terms and conditions on which the Supplier shall provide the relevant Optional Services have already been agreed;

### the Supplier shall implement and Test the relevant Optional Services in accordance with the Optional Services Implementation Plan;

### any additional charges for the Optional Services shall be incorporated in the Charges as specified in Paragraph 3 of Part B of Schedule 7.1 (Charges and Invoicing); and

### the Supplier shall, from the date agreed in the Optional Services Implementation Plan (or, if later, the date of Achievement of any Milestones associated with the commencement of the relevant Optional Services (if any)), provide the relevant Optional Services to meet or exceed the applicable Target Performance Level in respect of all Performance Indicators applicable to the Optional Services as set out in Annex 1 of Schedule 2.2 (Service Levels).

Project Services

## If at any time throughout the Term of this Agreement Netlink Star requires the Supplier to undertake Project Services, it shall discuss its requirements with the Supplier. As soon as practicable following these discussions, the Supplier shall (at no cost to Netlink Star) submit to Netlink Star a Draft Project Sheet.

## As soon as reasonably practicable following receipt of the Draft Project Sheet, Netlink Star shall notify the Supplier in in writing whether Netlink Star:

### Approves the Draft Project Sheet;

### Requires any modifications to the Draft Project Sheet; or

### Rejects the Draft Project Sheet.

## The Parties shall work together to make any modifications to the Draft Project Sheet requested by Netlink Star as soon as reasonably possible following receipt of Netlink Star’s comments. Supplier shall then resubmit the revised Draft Project Sheet to Netlink Star for approval in accordance with clause 5.15.

## Once a Draft Project Sheet has been approved by Netlink Star, each Party shall sign it and it shall then become a part of this Agreement and bound by the terms of this Agreement, and the Project Services set out therein shall become a part of the Services.

## Notwithstanding anything to the contrary in this Agreement:

### the Supplier acknowledges and agrees that Netlink Star may, at its discretion, request that any of the Services to be performed by the Supplier pursuant to this Agreement (including, for the avoidance of doubt, the Transition Services, the Migration Services, the Operational Services and/or any element thereof) are agreed and performed under a Project Sheet; and

### the process for agreeing Project Services and Project Sheets as set out in clauses 5.14 to 5.17 above does not need to follow and shall not be subject to the Change Control Procedure.

Netlink Star Responsibilities

## Netlink Star shall comply with its responsibilities set out in Schedule 3 (Netlink Star Responsibilities).

## The Supplier acknowledges and agrees that it shall have no claim against Netlink Star and that Netlink Star shall be deemed not to be in Default, to the extent that the Default of Netlink Star is a failure to comply with Netlink Star’s Responsibilities and such failure is caused or contributed to by the Supplier, any Affiliate of the Supplier or any Supplier Party under this Agreement or any other contract with Netlink Star or otherwise.

# INTEGRATION AND TRANSITION

Quality Plans

## The Supplier shall develop, within twenty (20) Working Days of the Effective Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it (“**Quality Plans**”).

## The Supplier shall obtain the Netlink Star Representative’s written approval of the Quality Plans before implementing them, which approval shall not be unreasonably withheld or delayed. The Supplier acknowledges and accepts that Netlink Star’s approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Agreement.

## Following the approval by Netlink Star of the Quality Plans:

### the Supplier shall design and deliver all Deliverables in accordance with the Quality Plans; and

### any Changes to the Quality Plans shall be agreed in accordance with the Change Control Procedure.

Integration Plan and Delays

## The Parties shall comply with the provisions of Schedule 6.4 (Initial Transition Project)in relation to the agreement and maintenance of the Detailed Implementation Plan.

## The Supplier shall:

### comply with the Integration Plan and any transitioning planning; and

### ensure that each Milestone is Achieved on or before its Milestone Date.

## If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay:

### it shall:

#### notify Netlink Star in accordance with clause 30.1 (Rectification Plan Process); and

#### comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and

#### use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and

### if the Delay or anticipated Delay relates to a Key Milestone, the provisions of clause 31 (Delay Payments) shall apply.

Testing and Achievement of Milestones

## The Parties shall comply with the provisions of Schedule 6.3 (Testing Procedures)in relation to the procedures to determine whether a Milestone or Test has been Achieved.

# MIGRATION

## The Supplier shall provide the Migration Project in accordance with Schedule 6.5 (Migration Project).

# PERFORMANCE INDICATORS

## The Supplier shall:

### provide the Operational Services in such a manner so as to meet or exceed the Target Performance Level for each Performance Indicator from the Milestone Date for each relevant CPP Milestone; and

### comply with the provisions of Schedule 2.2 (Service Levels) in relation to the monitoring and reporting on its performance against the Performance Indicators.

Performance Failures

## If in any Service Period:

### a KPI Failure occurs, Service Credits shall be deducted from the Service Charges in accordance with Paragraph 3 of Part C of Schedule 7.1 (Charges and Invoicing);

### a Material KPI Failure occurs, the Supplier shall comply with the Rectification Plan Process (in addition to Service Credits accruing in accordance with clause 8.2.1); and/or

### a Material PI Failure occurs:

#### the Supplier shall comply with the Rectification Plan Process; and

#### Netlink Star may withhold a proportionate amount of the Service Charges in accordance with the process set out in clause 12.9 (Set Off and Withholding) until the relevant Material PI Failure is rectified to the reasonable satisfaction of Netlink Star, at which point Netlink Star shall pay the amount withheld.

## Service Credits shall not be Netlink Star’s exclusive financial remedy for a KPI Failure.

Unacceptable KPI Failure

## If in any Service Period an Unacceptable KPI Failure occurs:

### Netlink Star shall (subject to the Service Credit Cap set out in clause 28.4.2 (Financial and other limits)) be entitled to withhold and retain as compensation for the Unacceptable KPI Failure a sum equal to any Service Charges which would otherwise have been due to the Supplier in respect of that Service Period (such sum being “**Compensation for Unacceptable KPI Failure**”); and

### if Netlink Star withholds and retains such Compensation for Unacceptable KPI Failure, any Service Points and Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue,

provided that the operation of this clause 8.4 shall be without prejudice to any right which Netlink Star may have to terminate this Agreement and/or to claim damages from the Supplier as a result of such Unacceptable KPI Failure.

## The Supplier:

### agrees that the application of clause 8.4 is commercially justifiable where an Unacceptable KPI Failure occurs; and

### acknowledges that it has taken legal advice on the application of clause 8.4 and has had the opportunity to price for that risk when calculating the Service Charges.

Critical Performance Failure

## If a Critical Performance Failure occurs, Netlink Star may exercise its rights to terminate this Agreement in whole or in part pursuant to clause 36.1 or 36.2 (Termination by Netlink Star).

Changes to Performance Indicators and Service Credits

## Not more than once in each Contract Year Netlink Star may, on giving the Supplier at least three (3) months’ notice:

### change the weighting that applies in respect of one or more specific Key Performance Indicators; and/or

### convert one or more:

#### Key Performance Indicators into a Subsidiary Performance Indicator; and/or

#### Subsidiary Performance Indicators into a Key Performance Indicator (in which event Netlink Star shall also set out in the notice details of what will constitute a Minor KPI Failure, a Serious KPI Failure and a Severe KPI Failure for the new Key Performance Indicator).

## The Supplier shall not be entitled to object to any changes made by Netlink Star under clause 8.7, or increase the Service Charges as a result of such changes provided that:

### the total number of Key Performance Indicators does not exceed;

### the principal purpose of the change is to reflect changes in Netlink Star’s business requirements and/or priorities or to reflect changing industry standards; and

### there is no change to the Service Credit Cap.

# SERVICES IMPROVEMENT

## The Supplier shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with this clause 9. As part of this obligation the Supplier shall identify and report to Netlink Star at least once every three (3) months on:

### the emergence of new and evolving relevant technologies which could improve the IT Environment and/or the Services, and those technological advances potentially available to the Supplier and Netlink Star which the Parties may wish to adopt;

### new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;

### new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or Netlink Star which might result in efficiency or productivity gains or in reduction of operational risk;

### changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to Netlink Star; and/or

### changes to the IT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.

## The Supplier shall ensure that the information that it provides to Netlink Star shall be sufficient for Netlink Star to decide whether any improvement should be implemented. The Supplier shall provide any further information that Netlink Star requests.

## If Netlink Star wishes to incorporate any improvement identified by the Supplier Netlink Star shall send the Supplier a Change Request in accordance with the Change Control Procedure.

# EARLY WARNING

## Without prejudice to any other provisions of this Agreement, the Supplier shall give an early warning by notifying Netlink Star as soon as possible after it becomes aware of any matter which could:

### increase or reduce the Charges;

### adversely affect the performance of the Services;

### impair Netlink Star’s ability to use the IT Environment or otherwise adversely affect Netlink Star’s operations; or

### lead to a Performance Failure or likely Performance Failure.

## If Netlink Star considers that a matter notified is sufficiently important to require an early warning meeting, an early warning meeting shall be convened and attended by the Supplier Representative, Netlink Star Representative and such other people as the Parties agree.

## At an early warning meeting those who attend will co-operate in:

### making and considering proposals for how the effect of each matter which has been notified as an early warning can be avoided or reduced;

### seeking solutions that will bring advantage to all those who will be affected; and

### deciding upon actions which they will take and who, in accordance with this Agreement, will take them.

## The Supplier Representative will record the proposals considered and decisions taken at an early warning meeting and will give a copy of his record to the Netlink Star Representative.

# EQUIPMENT AND MAINTENANCE

Supplier Equipment

## Where applicable, the Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites, including its off-loading, removal of all packaging and all other associated costs. Likewise, on termination or expiry of this Agreement the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites, including the cost of packing, carriage and making good the Sites following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements. For the avoidance of doubt, the Supplier shall ensure that all Supplier Equipment is (as applicable) collected, delivered, treated, recovered and disposed of in accordance with the Waste Electrical and Electronic Equipment Regulations 2013 (“**WEEE**”) and that all Supplier Equipment shall be supplied inclusive of any costs or charges for compliance with the collection, delivery, treatment, recovery and environmentally sound disposal of such Supplier Equipment as required by WEEE.

## All the Supplier’s property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier.

## Subject to any express provision of the BC and ITSC Plans to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Agreement, including the Target Performance Levels.

Maintenance

## Where required, the Supplier shall create and maintain a rolling schedule of planned maintenance to the IT Environment (the “**Maintenance Schedule**”)which shall be agreed with Netlink Star. Once the Maintenance Schedule has been agreed with Netlink Star Representative, the Supplier shall only undertake such planned maintenance (which shall be known as “**Permitted Maintenance**”) in accordance with the Maintenance Schedule.

## The Supplier shall give as much notice as is reasonably practicable to the Netlink Star Representative prior to carrying out any Emergency Maintenance.

## The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the IT Environment or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the IT Environment and the Services.

Supply of Goods

## Where, as part of the Services, the Supplier is to sell or provide goods or equipment (“**Goods**”) to Netlink Star:

### the relevant Goods and their prices shall be as set out in Schedule 7.1 (Charges and Invoicing);

### the Supplier shall supply and, where relevant, install the Goods in accordance with the relevant specification;

### the Supplier shall ensure that upon delivery the Goods:

#### are free from material defects in design, materials and workmanship;

#### are of satisfactory quality within the meaning of the Sale of Goods Act 1979;

#### conform with the relevant specification; and

#### provide the functionality set out in the Services Description and the Supplier Solution or the relevant Impact Assessment, as applicable;

and shall remain so for twelve (12) months after either:

##### the date of installation of the Goods; or

##### where the Goods do not require installation, the date of delivery;

### if following inspection or testing Netlink Star considers that the Goods do not conform with the relevant specification, Netlink Star shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance; and

### without prejudice to any other rights or remedies of Netlink Star:

#### risk in the Goods shall pass to Netlink Star at the time of delivery; and

#### ownership of the Goods shall pass to Netlink Star at the time of payment.

**SECTION C – PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS**

# FINANCIAL AND TAXATION MATTERS

Charges and Invoicing

## In consideration of the Supplier carrying out its obligations under this Agreement, including the provision of the Services, Netlink Star shall pay the Charges to the Supplier in accordance with the pricing and payment profile and the invoicing procedure specified in Schedule 7.1 (Charges and Invoicing).

## The Supplier shall provide clear and transparent information around charging and pricing and shall provide all such related data and further information as Netlink Star may reasonably request from time to time.

## Except as otherwise provided, each Party shall each bear its own costs and expenses incurred in respect of compliance with its obligations under this Agreement, including clauses 6.7 (Testing and Achievement of Milestones), 14 (Records, Reports & Audits), 25 (Freedom of Information), 26 (Protection of Personal Data) and, to the extent specified therein, clause 32 (Remedial Adviser) and clause 33 (Step-In Rights).

## If Netlink Star fails to pay any undisputed Charges properly invoiced under this Agreement, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

VAT

## The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by Netlink Star following delivery of a valid VAT invoice.

## The Supplier shall indemnify Netlink Star on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on Netlink Star at any time in respect of the Supplier’s failure to account for or to pay any VAT relating to payments made to the Supplier under this Agreement. Any amounts due under this clause 12.6 shall be paid in cleared funds by the Supplier to Netlink Star not less than five (5) Working Days before the date upon which the tax or other liability is payable by Netlink Star.

## Not used.

Set-off and Withholding

## Netlink Star may set off any amount owed by the Supplier to Netlink Star against any amount due to the Supplier under this Agreement or under any other agreement between the Supplier and Netlink Star.

## If Netlink Star wishes to:

### set off any amount owed by the Supplier to Netlink Star against any amount due to the Supplier pursuant to clause 12.8; or

### exercise its right pursuant to clause 8.2.3(b) (Performance Failures*)* to withhold payment of a proportion of the Service Charges, it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out Netlink Star’s reasons for withholding or retaining the relevant Charges.

Benchmarking

## The Parties shall comply with the provisions of Schedule 7.3 (Benchmarking) in relation to the benchmarking of any or all of the Services.

Financial Distress

## Not used.

Promoting Tax Compliance

## If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

### notify Netlink Star in writing of such fact within five (5) Working Days of its occurrence; and

### promptly provide to Netlink Star:

#### details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

#### such other information in relation to the Occasion of Tax Non-Compliance as Netlink Star may reasonably require.

Financial Responsibility

## If applicable, any Assets relevant to the provision of the Services shall be defined according to the following categories:

### Supplier Operated Hardware;

### Supplier Operated Software

### Supplier Provided Hardware

### Supplier Provided Software

### Netlink Star Provided Hardware

### Netlink Star Provided Software.

**SECTION D – CONTRACT GOVERNANCE**

# GOVERNANCE

## The Parties shall comply with the provisions of Schedule 8.1 (Governance) in relation to the management and governance of this Agreement.

Representatives

## Each Party shall have a representative for the duration of this Agreement who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Agreement.

## The initial Supplier Representative shall be the person named as such in Schedule 9.1 (Key Personnel). Any change to the Supplier Representative shall be agreed in accordance with clause 16 (Supplier Personnel).

## Netlink Star shall notify the Supplier of the identity of the initial Netlink Star Representative within five (5) Working Days of the Effective Date. Netlink Star may, by written notice to the Supplier, revoke or amend the authority of the Netlink Star Representative or appoint a new Netlink Star Representative.

## The Netlink Star Representative may delegate any of his or her actions or functions under this Agreement and may cancel his delegation and will notify the Supplier in writing of such delegation or cancellation.

## The Supplier will not act on instructions given by an employee or officer of Netlink Star (including any instructions to implement a change to the Services) unless the employee or officer is a Netlink Star Representative or has been notified to the Supplier pursuant to clause 13.5 above.

# RECORDS, REPORTS & AUDITS

## The Supplier shall comply with the provisions of Schedule 8.4 (Reports and Records Provisions) in relation to the maintenance and retention of Records.

## The Parties shall comply with the provisions of:

### Part B of Schedule 7.6 (Financial Reports and Audit Rights) in relation to the provision of the Financial Reports; and

### Part C of Schedule 7.6 (Financial Reports and Audit Rights) in relation to the exercise of the Audit Rights by Netlink Star or any Audit Agents.

# CHANGE

**Change Control Procedure**

## Any requirement for a Change shall be subject to the Change Control Procedure.

Change in Law

## The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Agreement nor be entitled to an increase in the Charges as the result of:

### a General Change in Law; or

### a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date.

## If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause 15.2.2), the Supplier shall:

### notify Netlink Star as soon as reasonably practicable of the likely effects of that change, including:

#### whether any Change is required to the Services, the Charges or this Agreement; and

#### whether any relief from compliance with the Supplier’s obligations is required, including any obligation to Achieve a Milestone and/or to meet the Target Performance Levels; and

### provide Netlink Star with evidence:

#### that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;

#### as to how the Specific Change in Law has affected the cost of providing the Services; and

#### demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of clause 9 (Services Improvement), has been taken into account in amending the Charges.

## Any variation in the Charges or relief from the Supplier’s obligations resulting from a Specific Change in Law (other than as referred to in clause 15.2.2) shall be implemented in accordance with the Change Control Procedure.

**SECTION E – SUPPLIER PERSONNEL AND SUPPLY CHAIN**

# SUPPLIER PERSONNEL

## The Supplier shall:

### provide in advance of any admission to Netlink Star Premises a list of the names of all Supplier Personnel and prospective Supplier personnel it intends to engage in the provision of the Services or performance of the Supplier’s obligations under this Agreement, and shall promptly update the list as necessary. In particular, the list shall specify the names of all Supplier Personnel requiring admission to Netlink Star Premises, specifying the capacity in which they require admission and giving such other particulars as Netlink Star may reasonably require;

### ensure that all Supplier Personnel:

#### are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;

#### are vetted in accordance with the Supplier’s staff vetting procedures as amended from time to time (which shall, in any event, be of a standard that is no less strict than Good Industry Practice) and, where applicable, the security requirements set out in Schedule 2.1 (Services Description), Schedule 2.6 (Security Management);

#### that were employed or engaged by the Supplier prior to the Effective Date were vetted and recruited on the basis that is equivalent to and no less strict than the Supplier’s staff vetting procedures in effect at the date upon which they were employed (which shall, in any event, be of a standard that is no less strict than Good Industry Practice); and

#### comply with all reasonable requirements of Netlink Star concerning conduct at Netlink Star Premises, including the security requirements as set out in Schedule 2.6 (Security Management);

### subject to Schedule 11 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of Netlink Star;

### be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Agreement shall be a Default by the Supplier;

### use all reasonable endeavours to minimise the number of changes in Supplier Personnel;

### replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;

### bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and

### procure that the Supplier Personnel shall vacate Netlink Star Premises immediately upon the termination or expiry of this Agreement.

## If Netlink Star reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Agreement, it may:

### refuse admission to the relevant person(s) to Netlink Star Premises; and/or

### direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

Key Personnel

## The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term. Schedule 9.1 (Key Personnel) lists the Key Roles and names of the persons who the Supplier shall appoint to fill those Key Roles at the Effective Date.

## Netlink Star may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.

## The Supplier shall not remove or replace any Key Personnel (including when carrying out Exit Management) unless:

### requested to do so by Netlink Star;

### the person concerned resigns, retires or dies or is on maternity or long-term sick leave;

### the person’s employment or contractual arrangement with the Supplier or a Subcontractor is terminated for material breach of contract by the employee; or

### the Supplier obtains Netlink Star’s prior written consent (such consent not to be unreasonably withheld or delayed).

## The Supplier shall:

### notify Netlink Star promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);

### ensure that any Key Role is not vacant for any longer than ten (10) Working Days;

### give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel’s employment contract, this will mean at least sixty (60) Working Days’ notice;

### ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services; and

### ensure that any replacement for a Key Role:

#### has a level of qualifications and experience appropriate to the relevant Key Role; and

#### is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

Employment Indemnity

## The Parties agree that:

### the Supplier shall both during and after the Term indemnify Netlink Star against all Employee Liabilities that may arise as a result of any claims brought against Netlink Star by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel; and

### Netlink Star shall both during and after the Term indemnify the Supplier against all Employee Liabilities that may arise as a result of any claims brought against the Supplier by any person where such claim arises from any act or omission of Netlink Star or any of Netlink Star’s employees, agents, consultants and contractors.

Income Tax and National Insurance Contributions

## Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Agreement, the Supplier shall:

### at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and

### indemnify Netlink Star against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

Staff Transfer

## The Parties agree that:

### where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers of Transferring Former Supplier Employees, Part B of Schedule 11 (Staff Transfer) shall not apply and Part C of Schedule 11 (Staff Transfer) shall not apply;

### where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Schedule 11 (Staff Transfer) shall apply and Part B of Schedule 11 (Staff Transfer) shall not apply; and

### Part D of Schedule 11 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services.

# SUPPLY CHAIN RIGHTS AND PROTECTIONS

Appointment of Sub-contractors

## The Supplier shall exercise due skill and care in the selection and appointment of any Subcontractors to ensure that the Supplier is able to:

### manage any Sub-contractors in accordance with Good Industry Practice;

### comply with its obligations under this Agreement in the delivery of the Services; and

### in the case of the selection and appointment of New Sub-contractors only, assign, novate or otherwise transfer to Netlink Star or any Replacement Supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Agreement.

## Prior to sub-contracting any of its obligations under this Agreement, the Supplier shall notify Netlink Star in writing of:

### the proposed Sub-contractor’s name, registered office and company registration number;

### the scope of any Services to be provided by the proposed Sub-contractor; and

### where the proposed Sub-contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of Netlink Star that the proposed Sub-contract has been agreed on “arm’s-length” terms.

## If requested by Netlink Star within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to clause 17.2, the Supplier shall also provide:

### in the case of a Sub-contract with a New Sub-contractor, a copy of the proposed Sub-contract; and

### any further information reasonably requested by Netlink Star,

### together the “**Sub-contractor Information**”. The Supplier may redact commercially sensitive information (e.g. pricing) in the Sub-contractor Information.”

## Netlink Star may, within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to clause 17.2 (or, if later, receipt of any further information requested pursuant to clause 17.3), object to the appointment of the relevant Sub-contractor where that Sub-contractor is a New Sub-contractor and if it considers that:

### the appointment of a proposed New Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of Netlink Star;

### the proposed New Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;

### the proposed New Sub-contractor employs unfit persons; and/or

### the proposed New Sub-contractor should be excluded in accordance with clause 17.18,

in which case, the Supplier shall not proceed with the proposed appointment.

## If:

### Netlink Star has not notified the Supplier that it objects to the proposed Subcontractor’s appointment by the later of ten (10) Working Days of receipt of:

#### the Supplier’s notice issued pursuant to clause 17.1; and

#### any further information requested by Netlink Star pursuant to clause 17.3; and

### the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of Netlink Star in accordance with clause 17.6 (Appointment of Key Sub-contractors),

the Supplier may proceed with the proposed appointment.

Appointment of Key Sub-contractors

## Where the Supplier wishes to enter into a Key Sub-contract or replace a Key Sub-contractor, it must obtain the prior written consent of Netlink Star, such consent not to be unreasonably withheld or delayed. For these purposes, Netlink Star may withhold its consent to the appointment of a Key Sub-contractor if it reasonably considers that:

### the appointment of a proposed Key Sub-contractor may prejudice the provision of the Services or may be contrary to the interests of Netlink Star;

### the proposed Key Sub-contractor is unreliable and/or has not provided reasonable services to its other customers; and/or

### the proposed Key Sub-contractor employs unfit persons.

## Netlink Star consents to the appointment of the Key Sub-contractors listed in Schedule 4.3 (Notified Key Sub-contractors*)*.

## Except where Netlink Star has given its prior written consent, the Supplier shall ensure that each Key Sub-contract shall include:

### provisions which will enable the Supplier to discharge its obligations under this Agreement;

### a right under CRTPA for Netlink Star to enforce any provisions under the Key Sub-contract which are capable of conferring a benefit upon Netlink Star;

### a provision enabling Netlink Star to enforce the Key Sub-contract as if it were the Supplier;

### in the case of a Key Sub-contract with a New Sub-contractor, a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-contract to Netlink Star or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by Netlink Star;

### obligations no less onerous on the Key Sub-contractor than those imposed on the Supplier under this Agreement in respect of:

#### data protection requirements set out in clauses 23 (Netlink Star Data and Security Requirements) and 26 (Protection of Personal Data);

#### FOIA requirements set out in clause 25 (Freedom of Information);

#### the obligation not to embarrass Netlink Star or otherwise bring Netlink Star into disrepute set out in clause 5.5.14 (Services);

#### the keeping of records in respect of the services being provided under the Key Sub-contract; and

#### the conduct of Audits set out in Part C of Schedule 7.6 (Financial Reports and Audit Rights);

### provisions enabling the Supplier to terminate the Key Sub-contract on notice on terms no more onerous on the Supplier than those imposed on Netlink Star under clauses 36.1 (Termination by Netlink Star) and 37.4 (Payments by Netlink Star) and Clause 37(Consequences of Termination) of this Agreement;

### a provision restricting the ability of the Key Sub-contractor to sub-contract all or any part of the services provided to the Supplier under the Key Sub-contract without first seeking the written consent of Netlink Star;

### a provision enabling the Supplier or Netlink Star to appoint a Remedial Adviser on substantially the same terms as are set out in clause 32 *(*Remedial Adviser);

### a provision enabling the Supplier, Netlink Star or any other person on behalf of Netlink Star to step-in on substantially the same terms as are set out in clause 33 *(*Step-In Rights);

### a provision requiring the Key Sub-contractor to participate in, and if required by Netlink Star in the relevant Multi-Party Procedure Initiation Notice to procure the participation of all or any of its Sub-contractors in, the Multi-Party Dispute Resolution Procedure;

### not used;

### provisions which require the Key Sub-contractor to notify Netlink Star promptly in writing of any material non-payment or late payment of any sums properly due to the Key Sub-contractor from the Supplier under the Key Sub-contract, under a specified valid invoice and not subject to a genuine dispute;

### a provision obliging the Key Sub-contractor to test its own service continuity plan on a regular basis and in any event not less than once in every Contract Year; and

### a provision requiring the Key Sub-contractor to have in place an appropriate exit and migration plan which enables it to comply (and will enable the Supplier to comply) with the requirements of this Agreement, to put such plan into effect on any termination (however arising) or expiry of the Key Sub-contract, and otherwise to ensure that any such termination or expiry will not affect the continuity of the Services.

## The Supplier shall not terminate or materially amend the terms of any Key Sub-contract without Netlink Star’s prior written consent, which shall not be unreasonably withheld or delayed.

Supply chain protection

## The Supplier shall ensure that all Sub-contracts (which in this sub-clause includes any contract in the Supplier’s supply chain made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Agreement, and Sub-contractor shall be construed accordingly) contain provisions:

### in the case of a Sub-contract with a New Sub-contractor, giving the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour law;

### requiring the Supplier or other party receiving goods or services under the Subcontract to consider and verify invoices under that Sub-contract in a timely fashion;

### stating that if the Supplier or other party fails to consider and verify an invoice in accordance with clause 17.10.2, the invoice shall be regarded as valid and undisputed for the purpose of clause 17.10.4 after a reasonable time has passed;

### requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days from verifying that the invoice is valid and undisputed;

### giving Netlink Star a right to publish the Supplier’s compliance with its obligation to pay undisputed invoices within the specified payment period; and

### requiring the Sub-contractor to include a clause to the same effect as this clause 17.10 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of the Sub-contract.

## The Supplier shall:

### pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days from verifying that an invoice is valid and undisputed;

### include within the Balanced Scorecard Report produced by it pursuant to Schedule 2.2 (Service Levels) a summary of its compliance with clause 17.11.1, such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

## Notwithstanding any provision of clauses 24 (Confidentiality) and 26.1 (Publicity and Branding), if the Supplier notifies Netlink Star (whether in a Balanced Scorecard Report or otherwise) that the Supplier has failed to pay a Sub-contractor’s undisputed invoice within thirty (30) days of receipt, or Netlink Star otherwise discovers the same, Netlink Star shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Termination of Sub-contracts

## In the case of a Sub-Contract with a New Sub-Contractor, Netlink Star may require the Supplier to terminate:

### a Sub-contract where:

#### the acts or omissions of the relevant Sub-contractor have caused or materially contributed to Netlink Star’s right of termination pursuant to clause 36.1.1 (Termination by Netlink Star); and/or

#### the relevant Sub-contractor or any of its Affiliates have embarrassed Netlink Star or otherwise brought Netlink Star into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in Netlink Star, regardless of whether or not such act or omission is related to the Sub-contractor’s obligations in relation to the Services or otherwise;

#### the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or

#### Netlink Star has found grounds for exclusion of the Subcontractor in accordance with clause 17.18; and

### a Key Sub-contract where there is a change of Control of the relevant Key Subcontractor, unless:

#### Netlink Star has given its prior written consent to the particular change of Control, which subsequently takes place as proposed; or

#### Netlink Star has not served its notice of objection within six (6) months of the later of the date the change of Control took place or the date on which Netlink Star was given notice of the change of Control.

Competitive Terms

## If Netlink Star is able to obtain from any New Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Supplier or the Supplier Personnel in the supply of the Services, then Netlink Star may:

### require the Supplier to replace its existing commercial terms with that person with the more favourable commercial terms obtained by Netlink Star in respect of the relevant item; or

### subject to clause 17.13, enter into a direct agreement with that New Sub-contractor or third party in respect of the relevant item.

## If Netlink Star exercises either of its options pursuant to clause 17.14, then the Charges shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.

## Netlink Star’s right to enter into a direct agreement for the supply of the relevant items is subject to:

### Netlink Star making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and

### any reduction in the Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

Retention of Legal Obligations

## Notwithstanding the Supplier’s right to sub-contract pursuant to this clause 17, the Supplier shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own.

Exclusion of Sub-contractors

## Where Netlink Star considers there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations (by application of Regulation 80(2) of the Utilities Contracts Regulations), then:

### if Netlink Star finds there are mandatory grounds for exclusion, the Supplier shall replace or shall not appoint the Sub-contractor;

### if Netlink Star finds there are discretionary grounds for exclusion, Netlink Star may require the Supplier to replace or not to appoint the Sub-contractor and the Supplier shall comply with such a requirement.

Relevant Sub-Contractors

## The Supplier shall provide to the Netlink Star Representative details of the name contact details and legal representatives of the Relevant Sub-contractors by no later than the Implementation Services Commencement Date.

## During the Term the Supplier shall notify Netlink Star in writing within ten (10) days of:

### any changes to the information required to be notified to Netlink Star in accordance with clause 17.19 above; and/or

### the name contact details and legal representatives of any Relevant Sub-contractors appointed following the Implementation Services Commencement Date.

## Where the Supplier is required to notify Netlink Star in accordance with clauses 17.20.1 and 17.20.2 it must obtain the written consent of Netlink Star to the appointment or continued use of the Relevant Sub-contractor(s).

## In considering whether to grant written consent in accordance with clause 17.21, the Supplier shall provide Netlink Star with a European Single Procurement Document for the Relevant Sub-contractor. Netlink Star may withhold its consent to the appointment or continued use of any Relevant Sub-contractor where the European Single Procurement Document provided to it in accordance with this clause 17.22 does not meet the Selection Criteria.

## Where Netlink Star withholds its consent in accordance with clause 17.22 the Supplier shall replace the Relevant Sub-contractor and shall propose a new sub-contractor by following the process detailed in clauses 17.20 to 17.22 above.

Data processing supply chain

## The provisions of this clause 17 are subject to clause 26 (Protection of Personal Data) in respect of any sub-contracts relating to data processing.

**SECTION F – INTELLECTUAL PROPERTY, DATA AND CONFIDENTIALITY**

# INTELLECTUAL PROPERTY RIGHTS

## Except as expressly set out in this Agreement:

### Netlink Star shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:

#### the Supplier Software;

#### the Third Party Software;

#### the Third Party IPRs; and

#### the Supplier Background IPRs;

### the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of Netlink Star or its licensors, including:

#### Netlink Star Software;

#### Netlink Star Data; and

#### Netlink Star Background IPRs.

### Specially Written Software and Project Specific IPRs (except for any Know-How, trade secrets or Confidential Information contained therein) shall be the property of Netlink Star.

## Where either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in clause 18.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

## Neither Party shall have any right to use any of the other Party’s names, logos or trade marks on any of its products or services without the other Party’s prior written consent.

## Unless Netlink Star stipulates otherwise in writing:

### all Specially Written Software and Project Specific IPRs shall be created in a format, or able to be converted into a format, which is suitable for publication by Netlink Star as Open Source; and

### where the Specially Written Software and Project Specific IPRs are written in a format that requires conversion before publication as Open Source, the Supplier shall also provide the converted format to Netlink Star.

## Where Netlink Star agrees that any Specially Written Software and/or any software element of Project Specific IPRs should be excluded from Open Source publication, the Supplier shall as soon as reasonably practicable provide written details of the impact that such exclusion will have on Netlink Star’s ability to publish other Open Source software under clause 21 (Open Source).

# TRANSFER AND LICENCES GRANTED BY THE SUPPLIER

Software as a Service

## Where any Software is to be provided by way of Software as a Service:

### Netlink Star acknowledges it will not be provided with a physical copy of the Software and that use of the Software is restricted to use by way of Software as a Service, and the provisions of this clause 19 shall be construed accordingly; and

### the licences granted by the Supplier pursuant to clauses 19.4.1 and/or 18.4.3 shall, in respect of any Software as a Service (only) be granted for the Term, instead of being of perpetual duration

Specially Written Software and Project Specific IPRs

## Subject to clause 19.17, the Supplier hereby agrees to transfer to Netlink Star, or shall procure the transfer to Netlink Star of, all rights in the Specially Written Software and the Project Specific IPRs including:

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

### all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the “**Software Supporting Materials**”),

but not including any Know-How, trade secrets or Confidential Information.

## The Supplier:

### shall:

#### inform Netlink Star of all Specially Written Software and any element of Project Specific IPRs that constitutes modification or enhancement to Supplier Software or Third Party Software;

#### deliver to Netlink Star the Specially Written Software and the software element of Project Specific IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable and shall provide updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to Netlink Star; and

#### without prejudice to clause 19.11 (Third Party Software and Third Party IPRs), provide full details to Netlink Star of any Supplier Background IPRs or Third Party IPRs which are embedded in or which are an integral part of the Specially Written Software or any element of Project Specific IPRs;

### acknowledges and agrees that the ownership of the media referred to in clause 19.3.1 shall vest in Netlink Star upon their receipt by Netlink Star;

### shall execute or shall procure the execution of all such assignments as are required to ensure that any rights in the Specially Written Software and Project Specific IPRs are properly transferred to Netlink Star; and

### waives or shall procure a waiver of any moral rights in any copyright works assigned to Netlink Star under this Agreement.

**Supplier Software and Supplier Background IPRs**

## The Supplier hereby grants to Netlink Star:

### subject to the provisions of clauses 19.17 and 37.11.2 (Consequences of expiry or termination), perpetual, royalty-free and non-exclusive licences to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

#### the Supplier Non-COTS Software for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of Netlink Star’s (or any other Central Government Body’s) business or function; and

#### the Supplier Non-COTS Background IPRs for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of Netlink Star’s (or any other Central Government Body’s) business or function; and

### a licence to use the Supplier COTS Software and Supplier COTS Background IPRs on the licence terms identified in a letter in or substantially in the form set out in Annex 1 to Schedule 5 (Software) and signed by or on behalf of the Parties on or before the Effective Date provided always that Netlink Star shall remain entitled to sub-license and to assign and novate the Supplier COTS Software and Supplier COTS Background IPRs on equivalent terms to those set out in clauses 19.7 and 19.8 in relation to the Supplier Non-COTS Software and Supplier Non-COTS Background IPRs; and

### a perpetual royalty-free non-exclusive licence to use without limitation any Know-How, trade secrets or Confidential Information contained within the Specially Written Software or the Project Specific IPRs.

## At any time during the Term or following termination or expiry of this Agreement, the Supplier may terminate the licence granted in respect of the Supplier Non-COTS Software under clause 19.4.1(a) or in respect of the Supplier Non-COTS Background IPRs under clause 19.4.1(b) by giving thirty (30) days’ notice in writing (or such other period as agreed by the Parties) if Netlink Star or any person to whom Netlink Star grants a sub-licence pursuant to clause 19.7 (Netlink Star’s right to sub-license) commits any material breach of the terms of clause 19.4.1(a) or 19.4.1(b) or 19.7.1(b) (as the case may be) which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives Netlink Star written notice specifying the breach and requiring its remedy.

## In the event the licence of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs is terminated pursuant to clause 19.5, Netlink Star shall:

### immediately cease all use of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs (as the case may be);

### at the discretion of the Supplier, return or destroy documents and other tangible materials to the extent that they contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs, provided that if the Supplier has not made an election within six (6) months of the termination of the licence, Netlink Star may destroy the documents and other tangible materials that contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs (as the case may be); and

### ensure, so far as reasonably practicable, that any Supplier Non-COTS Software and/or Supplier Non-COTS Background IPRs that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of Netlink Star) from any computer, word processor, voicemail system or any other device containing such Supplier Non-COTS Software and/or Supplier Non-COTS Background IPRs.

Netlink Star’s right to sub-license

## Subject to clause 19.17, Netlink Star may sub-license:

### the rights granted under clause 19.4.1 (Supplier Software and Supplier Background IPRs) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:

#### the sub-licence is on terms no broader than those granted to Netlink Star;

#### the sub-licence authorises the third party to use the rights licensed in clause 19.4.1 (Supplier Software and Supplier Background IPRs) only for purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of Netlink Star’s (or any other Central Government Body’s) business or function; and

#### the sub-licensee shall have executed a confidentiality undertaking in favour of the Supplier in or substantially in the form set out in Annex 2 to Schedule 5 (Software); and

### the rights granted under clause 19.4.1 (Supplier Software and Supplier Background IPRs) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Specially Written Software and/or the Project Specific IPRs provided that:

#### the sub-licence is on terms no broader than those granted to Netlink Star; and

#### either:

##### the Supplier has received a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 5 (Software) duly executed by the Approved Sub-Licensee; or

##### a confidentiality undertaking in the Supplier’s favour in or substantially in in the form set out in Annex 2 to Schedule 5 (Software) duly executed by the Approved Sub Licensee has been received by Netlink Star who, without prejudice to the validity of the relevant sub-licence, will issue a copy of such confidentiality undertaking to the Supplier within ten (10) Working Days of its receipt.

Netlink Star’s right to assign/novate licences

## Netlink Star may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to clause 19.4.1 (Supplier Software and Supplier Background IPRs) to:

### a Central Government Body; or

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

## Any change in the legal status of Netlink Star which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in clause 19.4 (Supplier Software and Supplier Background IPRs). The successor body to Netlink Star shall still be entitled to the benefit of the licences granted in clause 19.4 (Supplier Software and Supplier Background IPRs).

## If a licence granted in clause 19.4 (Supplier Software and Supplier Background IPRs) is novated under clause 19.8 (Netlink Star’s right to assign/novate licences) or there is a change of Netlink Star’s status pursuant to clause 19.9, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by Netlink Star.

Third Party Software and Third Party IPRs

## The Supplier shall not use in the provision of the Services (including in any Specially Written Software or in the software element of Project Specific IPRs) any Third Party Non-COTS Software or Third Party Non-COTS IPRs unless in each case it has:

### first procured that the owner or an authorised licensor of the relevant Third Party Non-COTS IPRs or Third Party Non-COTS Software (as the case may be) has granted a direct licence to Netlink Star on a royalty-free basis to Netlink Star and on terms:

#### no less favourable to Netlink Star than those set out in clauses 19.4.1 and 19.5 (Supplier Software and Supplier Background IPRs) and clause 19.8 (Netlink Star’s right to assign/novate licences); and

#### which allow Netlink Star to be able to sub-licence the rights granted to it to any Replacement Supplier, provided that:

##### the sub-licence is on terms no broader than those granted to Netlink Star;

##### the sub-licence authorises the Replacement Supplier to use the rights licensed in this clause 19.11 only for the purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of Netlink Star’s or any Central Government Body’s business or functions; and

##### the Replacement Supplier shall have executed a confidentiality undertaking in favour of the Supplier in or substantially in the form set out in Annex 2 to Schedule 5 (Software); or

### complied with the provisions of clause 19.12.

## If the Supplier cannot obtain for Netlink Star a licence in respect of any Third Party Non-COTS Software and/or Third Party Non-COTS IPRs in accordance with the licence terms set out in clause 19.11.1, the Supplier shall:

### notify Netlink Star in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use;

### use the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs only if Netlink Star has first approved in writing the terms of the licence from the relevant third party.

### if the Supplier cannot obtain for Netlink Star licence terms for the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs acceptable to Netlink Star, consult Netlink Star on alternatives to the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs. Any alternative software approved by Netlink Star in accordance with this clause 19.12.3 shall be substituted for the relevant Third Party Software originally listed in Schedule 5 (Software) and shall be henceforth Third Party Software for the purposes of this Agreement, to which the provisions of clauses 19.11 to 19.13 (as applicable) shall apply.

## The Supplier shall:

### notify Netlink Star in writing of all Third Party COTS Software and Third Party COTS IPRs that it uses and the terms on which it uses them; and

### unless instructed otherwise in writing by Netlink Star in any case within twenty (20) Working Days of notification pursuant to clause 19.13.1, use all reasonable endeavours to procure in each case that the owner or an authorised licensor of the relevant Third Party COTS Software and Third Party COTS IPRs grants a direct licence to Netlink Star on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

## Notwithstanding and without prejudice to the other provisions of clauses 18 and 19, should the Supplier become aware at any time, including after termination, that the Specially Written Software and/or the Project Specific IPRs contain any Intellectual Property Rights for which Netlink Star does not have a suitable licence, then the Supplier must:

### notify Netlink Star within ten (10) days of what those rights are and which parts of the Specially Written Software and the Project Specific IPRs they are found in; and

### as soon as reasonably practicable procure that Netlink Star has all rights in the such Intellectual Property Rights, to satisfy the Supplier’s obligations under this clause 19.

Termination and Replacement Suppliers

## For the avoidance of doubt, the termination or expiry of this Agreement shall not of itself result in any termination of any of the licences granted by the Supplier or relevant third party pursuant to or as contemplated by this clause 19.

## The Supplier shall, if requested by Netlink Star in accordance with Schedule 8.5 (Exit Management) and at the Supplier’s cost:

### grant (or procure the grant) to any Replacement Supplier of:

#### a licence to use any Supplier Non-COTS Software, Supplier NonCOTS Background IPRs, Third Party Non-COTS IPRs and/or Third Party Non-COTS Software on a royalty-free basis to the Replacement Supplier and on terms no less favourable than those granted to Netlink Star in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this clause 19 subject to receipt by the Supplier of a confidentiality undertaking in its favour (Software) duly executed by the Replacement Supplier;

#### a licence to use any Supplier COTS Software and/or Supplier COTS Background IPRs, on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the Supplier; and/or

### use all reasonable endeavours to procure the grant to any Replacement Supplier of a licence to use any Third Party COTS Software and/or Third Party COTS IPRs on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant /third party.

Patents

## Where a patent owned by the Supplier is necessarily infringed by the use of the Specially Written Software or Project Specific IPRs by Netlink Star or any Replacement Supplier, the Supplier hereby grants to Netlink Star and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software solely for the purpose for which they were delivered under this Agreement.

# LICENCES GRANTED BY NETLINK STAR

## Netlink Star hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Term to use Netlink Star Software, Netlink Star Background IPRs, Netlink Star Data, the Specially Written Software and the Project Specific IPRs solely to the extent necessary for performing the Services in accordance with this Agreement, including (but not limited to) the right to grant sub-licences to Sub-contractors provided that:

### any relevant Sub-contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in clause 24 (Confidentiality); and

### the Supplier shall not, without Netlink Star’s prior written consent, use the licensed materials for any other purpose or for the benefit of any person other than Netlink Star.

## In the event of the termination or expiry of this Agreement, the licence granted pursuant to clause 20.1 and any sub-licence granted by the Supplier in accordance with clause 20.1 shall terminate automatically on the date of such termination or expiry and the Supplier shall:

### immediately cease all use of Netlink Star Software, Netlink Star Background IPRs and Netlink Star Data (as the case may be);

### at the discretion of Netlink Star, return or destroy documents and other tangible materials that contain any of the Netlink Star Software, Netlink Star Background IPRs and Netlink Star Data, provided that if Netlink Star has not made an election within six (6) months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Netlink Star Software, the Netlink Star Background IPRs and the Netlink Star Data (as the case may be); and

### ensure, so far as reasonably practicable, that any Netlink Star Software, Netlink Star Background IPRs and Netlink Star Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Supplier computer, word processor, voicemail system or any other Supplier device containing such Netlink Star Software, Netlink Star Background IPRs and/or Netlink Star Data.

# OPEN SOURCE

## The Software does not contain any Open Source other than the OSS. The Software (excluding the OSS) remains separable from or merely links or binds by name to the interfaces of the OSS.

## The Supplier shall not at any time during the Term without Netlink Star’s express written consent include in or aggregate with the Software any Open Source other than the OSS, or make any changes to the Software which require it to be aggregated with or operated in conjunction with any Open Source other than the OSS.

## The Supplier warrants that the OSS is licensed upon terms which permit the use of such Open Source by the Supplier, Netlink Star and Netlink Star’s end users for all purposes contemplated by this Agreement.

## The Supplier agrees that Netlink Star may at its sole discretion publish as Open Source all or part of the Specially Written Software and the Project Specific IPRs on or after the Operational Service Commencement Date.

## The Supplier hereby warrant that the Specially Written Software and the Project Specific IPRs:

### are suitable for release as Open Source and that any release will not allow a third party to use the Open Source to in any way compromise the operation, running or security of the Specially Written Software, the Project Specific IPRs or the Netlink Star System;

### shall not cause any harm or damage to any party using anything published as Open Source and that the Specially Written Software and the Project Specific IPRs do not contain any Malicious Software;

### do not contain any material which would bring Netlink Star into disrepute upon publication as Open Source;

### do not contain any IPR owned or claimed to be owned by any third party which is found, or alleged to be found, in the Specially Written Software and the Project Specific IPRs (“**Non-Party IPRs**”); and

### will be supplied in a format suitable for publication as Open Source (the **“Open Source Publication Material”**) no later than the date specified in clause 21.4.

## The Supplier shall ensure that the Open Source Publication Material provided to Netlink Star does not include any Supplier Background IPRs save that any Supplier Background IPRs that the Supplier is willing to allow to be included in any Open Source publication can remain in the Open Source Publication Material supplied to Netlink Star. In such a case, the Supplier hereby acknowledges that any such Supplier Background IPRs will become Open Source and will be licensed and treated as such following publication by Netlink Star and any third party that uses the Open Source Publication Material on the terms of the Open Source licence used by Netlink Star when publishing as Open Source.

## The Supplier herby indemnifies Netlink Star against all claims in which Netlink Star is, or is threatened to be, a party for any alleged infringement of any Non-Party IPRs arising from publication of the Specially Written Software and the Project Specific IPRs as Open Source under clause 21.4.

# IPRs INDEMNITY

## The Supplier shall at all times, during and after the Term, on written demand indemnify Netlink Star and each other Indemnified Person, and keep Netlink Star and each other Indemnified Person indemnified, against all Losses incurred by, awarded against or agreed to be paid by an Indemnified Person arising from an IPRs Claim.

## If an IPRs Claim is made, or the Supplier anticipates that an IPRs Claim might be made, the Supplier may, at its own expense and sole option, either:

### procure for Netlink Star or other relevant Indemnified Person the right to continue using the relevant item which is subject to the IPRs Claim; or

### replace or modify the relevant item with non-infringing substitutes provided that:

#### the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;

#### the replaced or modified item does not have an adverse effect on any other services or the IT Environment;

#### there is no additional cost to Netlink Star or relevant Indemnified Person (as the case may be); and

#### the terms and conditions of this Agreement shall apply to the replaced or modified Services.

## If the Supplier elects to procure a licence in accordance with clause 22.2.1 or to modify or replace an item pursuant to clause 22.2.2, but this has not avoided or resolved the IPRs Claim, then:

### Netlink Star may terminate this Agreement (if subsisting) with immediate effect by written notice to the Supplier; and

### without prejudice to the indemnity set out in clause 22.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

# NETLINK STAR DATA AND SECURITY REQUIREMENTS

## The Supplier shall not delete or remove any proprietary notices contained within or relating to the Netlink Star Data.

## The Supplier shall not store, copy, disclose, or use the Netlink Star Data except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise expressly authorised in writing by Netlink Star.

## To the extent that Netlink Star Data is held and/or processed by the Supplier, the Supplier shall supply that Netlink Star Data to Netlink Star as requested by Netlink Star in the format specified in Schedule 2.1 (Services Description).

## The Supplier shall preserve the integrity of Netlink Star Data and prevent the corruption or loss of Netlink Star Data at all times that the relevant Netlink Star Data is under its control or the control of any Sub-contractor.

## The Supplier shall perform secure back-ups of all Netlink Star Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the BC and ITSC Plans. The Supplier shall ensure that such back-ups are available to Netlink Star (or to such other person as Netlink Star may direct) at all times upon request and are delivered to Netlink Star at no less than six (6) monthly intervals (or such other intervals as may be agreed in writing between the Parties).

## The Supplier shall ensure that any system on which the Supplier holds any Netlink Star Data, including back-up data, is a secure system that complies with the Security Requirements.

## If Netlink Star Data is corrupted, lost or sufficiently degraded as a result of the Supplier’s Default so as to be unusable, Netlink Star may:

### require the Supplier (at the Supplier’s expense) to restore or procure the restoration of Netlink Star Data to the extent and in accordance with the requirements specified in Schedule 8.6 (Business Continuity and IT Service Continuity) and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of Netlink Star’s notice; and/or

### itself restore or procure the restoration of Netlink Star Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Schedule 8.6 (Business Continuity and IT Service Continuity).

## If at any time the Supplier suspects or has reason to believe that Netlink Star Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify Netlink Star immediately and inform Netlink Star of the remedial action the Supplier proposes to take.

## The Supplier shall comply with the requirements of Schedule 2.6 (Security Management).

## Netlink Star shall notify the Supplier of any changes or proposed changes to the Baseline Security Requirements.

## If the Supplier believes that a change or proposed change to the Baseline Security Requirements will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.

## At any time prior to or during the Term, the Supplier acknowledges and agrees that it may be subject to assessment of its organisational security arrangements in any relevant jurisdiction being used to process any Netlink Star Data by Netlink Star’s Data Protection Officer.

Malicious Software

## The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions and currently supported software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software in the IT Environment (or as otherwise agreed by the Parties).

## Notwithstanding clause 23.13, if Malicious Software is found, the Parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Netlink Star Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.

## Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause 23.14 shall be borne by the Parties as follows:

### by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where Netlink Star has waived the obligation set out in clause 23.13) or Netlink Star Data (whilst the Netlink Star Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by Netlink Star when provided to the Supplier; and

### otherwise by Netlink Star.

Cyber Security

## The Supplier shall comply with Netlink Star’s Security Policy – L1 Information Security Policy and L2 Security Manual Standard.

# CONFIDENTIALITY

## For the purposes of this clause 24, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.

## Except to the extent set out in this clause 24 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:

### treat the Disclosing Party’s Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);

### not disclose the Disclosing Party’s Confidential Information to any other person without obtaining the owner’s prior written consent;

### not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Agreement; and

### immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.

## The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

### the Recipient is required to disclose the Confidential Information by Law, provided that clause 25 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;

### the need for such disclosure arises out of or in connection with:

#### any legal challenge or potential legal challenge against Netlink Star arising out of or in connection with this Agreement;

#### the examination and certification of Netlink Star’s accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which Netlink Star is making use of any Services provided under this Agreement; or

#### the conduct of a Central Government Body review in respect of this Agreement; or

### the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

## If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.

## The Supplier may disclose the Confidential Information of Netlink Star on a confidential basis only to:

### Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier’s obligations under this Agreement;

### its auditors; and

### its professional advisers for the purposes of obtaining advice in relation to this Agreement.

Where the Supplier discloses Confidential Information of Netlink Star pursuant to this clause 24.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.

## Netlink Star may disclose the Confidential Information of the Supplier:

### on a confidential basis to any Central Government Body for any proper purpose of Netlink Star or of the relevant Central Government Body;

### to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

### to the extent that Netlink Star (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

### on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in clause 24.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Agreement;

### on a confidential basis for the purpose of the exercise of its rights under this Agreement, including the Audit Rights, its step-in rights pursuant to clause 33 (Step-In Rights), its rights to appoint a Remedial Adviser pursuant to clause 32 (Remedial Adviser) and Exit Management rights; or

### on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on Netlink Star under this clause 24.

## Nothing in this clause 24 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party’s Confidential Information or an infringement of Intellectual Property Rights.

# TRANSPARENCY AND FREEDOM OF INFORMATION

## The Supplier acknowledges that Netlink Star is subject to the requirements of the FOIA and the EIRs. The Supplier shall:

### provide all necessary assistance and cooperation as reasonably requested by Netlink Star to enable Netlink Star to comply with its obligations under the FOIA and EIRs;

### transfer to Netlink Star all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;

### provide Netlink Star with a copy of all Information held on behalf of Netlink Star which is requested in a Request For Information which is in its possession or control in the form held by the Supplier within five (5) Working Days (or such other period as Netlink Star may reasonably specify) of Netlink Star’s request for such Information; and

### not respond directly to a Request For Information addressed to Netlink Star unless authorised in writing to do so by Netlink Star.

## The Supplier acknowledges that Netlink Star may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. Netlink Star shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State’s section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) Netlink Star shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

## The Parties acknowledge that

### the Transparency Reports (excluding any Commercially Sensitive Data); and

### the content of this Agreement, including any changes to this Agreement agreed from time to time, except for:

#### any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by Netlink Star; and

#### Commercially Sensitive Information;

(together the “**Transparency Information**”) are not Confidential Information.

## Notwithstanding any other provision of this Agreement, the Supplier hereby gives its consent for Netlink Star to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). Netlink Star shall, prior to publication, consult with the Supplier 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.

## The Supplier shall assist and co-operate with Netlink Star to enable Netlink Star to publish the Transparency Information, including preparation of the Transparency Reports in accordance with Schedule 8.4 (Reports and Records Provisions).

## If Netlink Star believes that publication of any element of the Transparency Information would be contrary to the public interest, Netlink Star shall be entitled to exclude such information from publication. Netlink Star acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, Netlink Star acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Supplier.

## Netlink Star 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 Supplier.

## The Supplier agrees that any 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 Netlink Star on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. Netlink Star may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to clause 24) publish such Information. The Supplier shall provide to Netlink Star within five (5) Working Days (or such other period as Netlink Star may reasonably specify) any such Information requested by Netlink Star.

# PROTECTION OF PERSONAL DATA

## For the purposes of this clause 26 the following definitions apply;

### **“Data Protection Legislation”** means (i) the GDPR, and any applicable national implementing laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable laws about the processing of personal data and privacy.

### “Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer, Data Protection Impact Assessment” take the meaning given in the GDPR.

### **“Data Loss Event”** means any event that results, or may result, in unauthorised access to any network or information system used to provide the Services or to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

### **“Data Subject Request”** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

### **“GDPR”** means the General Data Protection Regulation *(Regulation (EU) 2016/679)*.

### **“Sub-processor”** means any third Party appointed to process Personal Data on behalf of the Supplier.

## With respect to the Parties’ rights and obligations under this Agreement, the Parties acknowledge that for the purposes of the Data Protection Legislation, Netlink Star is the Controller and the Supplier is the Processor.

## The only processing that the Supplier is authorised to do is listed in Schedule 12 (Protection of Personal Data) by Netlink Star and may not be determined by the Supplier.

## The Supplier shall provide all reasonable assistance to Netlink Star in the preparation of any Data Protection Impact Assessment prior to commencing any processing.

## The Supplier shall:

### only process Personal Data to the extent strictly necessary and listed in Schedule 12 (Protection of Personal Data) to perform its obligations under this Agreement;

### ensure that it has in place protective measures which are agreed between the parties as appropriate to protect against a Data Loss Event;

### take all reasonable steps to ensure the Supplier’s personnel who have access to Personal Data:

#### are aware of and comply with the Supplier’s duties under this clause 26;

#### are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor; and

#### have undergone adequate training in the use, care, protection and handling of Personal Data;

### not transfer Personal Data to any country outside the European Economic Area (as it is made up from time to time) or the United Kingdom unless the prior written consent of Netlink Star has been obtained and the following conditions are fulfilled:

#### Netlink Star or the Supplier has provided appropriate safeguards in relation to the transfer as determined by Netlink Star (acting in good faith);

#### the Data Subject has enforceable rights and effective legal remedies; and

#### the Supplier complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist Netlink Star in meeting its obligations); and

### at the written direction of Netlink Star, delete or return Personal Data (and any copies of it) to Netlink Star on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.

## The Supplier shall notify Netlink Star immediately if it:

### receives a Data Subject Request (or purported Data Subject Request);

### receives a request to rectify, block or erase any Personal Data;

### receives any other request, complaint or communication relating to either Party’s obligations under Data Protection Legislation;

### receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

### 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

### becomes aware of a Data Loss Event.

## Taking into account the nature of the processing, the Supplier shall provide Netlink Star with full assistance in relation to either Party’s obligations under Data Protection Legislation and any complaint, communication or request made (and insofar as possible within the timescales reasonably required by Netlink Star) including by promptly providing:

### full details and copies of the complaint, communication or request;

### such assistance as is reasonably requested by Netlink Star to enable Netlink Star to comply with a Data Subject Request within the relevant timescales set out in Data Protection Legislation;

### Netlink Star, at its request, with any Personal Data it holds in relation to a Data Subject;

### assistance as requested by Netlink Star following any Data Loss Event;

### assistance as requested by Netlink Star with respect to any request from the Information Commissioner’s Office or any other regulatory authority, or any consultation by Netlink Star with the Information Commissioner’s Office.

## The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 26 and shall upon reasonable request, promptly make them available to Netlink Star.

## Save as for any audits required by the Information Commissioner’s Office or any other regulatory authority which the Supplier shall allow or due to a Data Loss Event the Supplier shall allow for no more than one (1) audit of its Data Processing activity by Netlink Star or Netlink Star’s designated auditor per calendar year.

## Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must obtain the written consent of Netlink Star and enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 26 such that they apply to the Sub-processor.

# PUBLICITY AND BRANDING

## The Supplier shall not:

### make any press announcements or publicise this Agreement or its contents in any way;

### use Netlink Star’s name, brand or logo in any promotion or marketing or announcement of orders; or

### disclose that Netlink Star is a customer or client of the Supplier,

without the prior written consent of Netlink Star, which shall not be unreasonably withheld or delayed.

## Each Party acknowledges to the other that nothing in this Agreement either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services, the Supplier System and Netlink Star System) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

**SECTION G – LIABILITY, INDEMNITIES AND INSURANCE**

# LIMITATIONS ON LIABILITY

Unlimited liability

## Neither Party limits its liability for:

### death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors (as applicable);

### fraud or fraudulent misrepresentation by it or its employees;

### breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

### any liability to the extent it cannot be limited or excluded by Law; or

## The Supplier’s liability in respect of:

### the indemnities in clause 12.6 (VAT), clause 16.7 (Employment Indemnity), clause 16.8 (Income Tax and National Insurance Contributions), clause 22 (IPRs Indemnity) and Schedule 11 (Staff Transfer), shall be unlimited; and

### all breaches of clause 26 (Protection of Personal Data), shall be capped in aggregate at twenty million pounds (£20,000,000.00).

## Netlink Star’s liability in respect of the indemnities in clause 16.7 (Employment Indemnity) and shall be unlimited.

Financial and other limits

## Subject to clauses 28.1 and 28.2 (Unlimited Liability) and clauses 28.8 and 28.9 (Consequential losses):

### the Supplier’s aggregate liability in respect of loss of or damage to Netlink Star Premises or other property or assets of Netlink Star (including technical infrastructure, assets or equipment but excluding any loss or damage to Netlink Star’s Data or any other data) that is caused by Defaults of the Supplier occurring in each and any Contract Year shall in no event exceed £10 million;

### the Supplier’s aggregate liability in respect of all Service Credits and incurred in any rolling period of twelve (12) months shall be subject to the Service Credit Cap; and

### the Supplier’s aggregate liability in respect of all other Losses incurred by Netlink Star under or in connection with this Agreement as a result of Defaults by the Supplier shall in no event exceed:

#### in relation to Defaults occurring in the first Contract Year, an amount equal to 150% of the Estimated Year 1 Charges;

#### in relation to Defaults occurring during any subsequent Contract Year, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier under this Agreement in the Contract Year immediately preceding the occurrence of the Default; and

#### in relation to Defaults occurring after the end of the Term, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier in the twelve (12) month period immediately prior to the last day of the Term,

provided that where any Losses referred to in clause 28.4.3 have been incurred by Netlink Star as a result of the Supplier’s abandonment of this Agreement or the Supplier’s wilful default, wilful breach of a fundamental term of this Agreement or wilful repudiatory breach of this Agreement, the references in such clause to 150% shall be deemed to be references to 200%.

## Deductions from Charges shall not be taken into consideration when calculating the Supplier’s liability under clause 28.4.3.

## Subject to clauses 28.1 and 28.3 (Unlimited Liability) and clause 28.8 (Consequential Losses) and without prejudice to Netlink Star’s obligation to pay the Charges as and when they fall due for payment (including payments in respect of unpaid Charges for Services received up until the Termination Date):

### Netlink Star’s total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of early termination of this Agreement by Netlink Star pursuant to clause 36.1 (Termination by Netlink Star) or by the Supplier pursuant to clause 36.3.1 (Termination by the Supplier) shall in no event exceed five hundred thousand pounds (£500,000); and

### Netlink Star’s aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of Defaults of Netlink Star shall in no event exceed an amount equal to fifty per cent (50%) of the total Charges paid, due or which would have been payable during the Term, as set out in the Base Overhead Charge.

## For the avoidance of doubt:

### any liability of a party which falls within clause 28.1 of the Supplier which falls within clause 28.2 or of Netlink Star which falls within clause 28.3 will not be taken into account in assessing whether the financial limits in clauses 28.4 and/or 28.6 (as applicable) have been reached;

### the financial limits in clauses 28.4.1, 28.4.2 and 28.4.3 are separate not cumulative and any liability of the Supplier which falls within one of those clauses shall not be taken into account in assessing whether the financial limits in the other such clauses have been reached; and

### the financial limits and 28.6.2 are separate not cumulative and any liability of Netlink Star which falls within one sub-clause in clause 28.6 shall not be taken into account in assessing whether the financial limits in any of the other sub-clauses have been reached.

Consequential Losses

## Subject to clauses 28.1, 28.2 and 28.3 (Unlimited Liability) and clause 28.9, neither Party shall be liable to the other Party for:

### any indirect, special or consequential Loss; or

### any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).

## Notwithstanding clause 28.8 but subject to clause 28.4, the Supplier acknowledges that Netlink Star may, amongst other things, recover from the Supplier the following Losses incurred by Netlink Star to the extent that they arise as a result of a Default by the Supplier:

### any additional operational and/or administrative costs and expenses incurred by Netlink Star, including costs relating to time spent by or on behalf of Netlink Star in dealing with the consequences of the Default;

### any wasted expenditure or charges;

### the additional cost of procuring Replacement Services for the remainder of the Term and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Agreement;

### any compensation or interest paid to a third party by Netlink Star;

### any fine or penalty incurred by Netlink Star pursuant to Law and any costs incurred by Netlink Star in defending any proceedings which result in such fine or penalty; and

### any anticipated savings identified in Schedule 7.7 (Anticipated Savings).

Conduct of indemnity claims

## Where under this Agreement one Party indemnifies the other Party, the Parties shall comply with the provisions of Schedule 8.7 (Conduct of Claims) in relation to the conduct of claims made by a third person against the Party having (or claiming to have) the benefit of the indemnity.

Mitigation

## Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Agreement, including any Losses for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Agreement.

# INSURANCE

The Supplier shall comply with the provisions of Schedule 2.7 (Insurance Requirements) in relation to obtaining and maintaining insurance.

**SECTION H – REMEDIES AND RELIEF**

# RECTIFICATION PLAN PROCESS

## In the event that:

### there is, or is reasonably likely to be, a Delay;

### in any Service Period there has been:

#### a Material KPI Failure; and/or

#### the Supplier commits a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default),

(each a “**Notifiable Default**”), the Supplier shall notify Netlink Star of the Notifiable Default as soon as practicable but in any event within three (3) Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default and, unless the Notifiable Default also constitutes a Rectification Plan Failure or other Supplier Termination Event, Netlink Star may not terminate this Agreement in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

**Notification**

## If:

### the Supplier notifies Netlink Star pursuant to clause 30.1 that a Notifiable Default has occurred; or

### Netlink Star notifies the Supplier that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Supplier has to rectify),

then, unless the Notifiable Default also constitutes a Supplier Termination Event and Netlink Star serves a Termination Notice, the Supplier shall comply with the Rectification Plan Process.

## The “**Rectification Plan Process**” shall be as set out in clauses 30.4 (Submission of the draft Rectification Plan) to 30.9 (Agreement of the Rectification Plan).

Submission of the draft Rectification Plan

## The Supplier shall submit a draft Rectification Plan to Netlink Star for it to review as soon as possible and in any event within ten (10) Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to clause 30.2 (Notification). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.

## The draft Rectification Plan shall set out:

### full details of the Notifiable Default that has occurred, including a root cause analysis;

### the actual or anticipated effect of the Notifiable Default; and

### the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable).

## The Supplier shall promptly provide to Netlink Star any further documentation that Netlink Star reasonably requires to assess the Supplier’s root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Paragraph 6 of Schedule 8.3 (Dispute Resolution Procedure).

Agreement of the Rectification Plan

## Netlink Star may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:

### is insufficiently detailed to be capable of proper evaluation;

### will take too long to complete;

### will not prevent reoccurrence of the Notifiable Default; and/or

### will rectify the Notifiable Default but in a manner which is unacceptable to Netlink Star.

## Netlink Star shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If Netlink Star rejects the draft Rectification Plan, Netlink Star shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to Netlink Star for review within five (5) Working Days (or such other period as agreed between the Parties) of Netlink Star’s notice rejecting the first draft.

## If Netlink Star consents to the Rectification Plan:

### the Supplier shall immediately start work on the actions set out in the Rectification Plan; and

### Netlink Star may no longer terminate this Agreement in whole or in part on the grounds of the relevant Notifiable Event.

# DELAY PAYMENTS

## If a Key Milestone has not been Achieved by its relevant Milestone Date, the provisions of Paragraph 1 of Part C of Schedule 7.1 (Charges and Invoicing) shall apply in relation to the payment of Delay Payments.

## Not used.

# REMEDIAL ADVISER

## If:

### any of the Intervention Trigger Events occur; or

### Netlink Star reasonably believes that any of the Intervention Trigger Events are likely to occur,

(each an “**Intervention Cause**”), Netlink Star may give notice to the Supplier (an “**Intervention Notice**”) giving reasonable details of the Intervention Cause and requiring:

#### a meeting between the Netlink Star Representative and the Supplier Representative to discuss the Intervention Cause; and/or

#### the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this clause 32.

For the avoidance of doubt, if the Intervention Cause is also a Supplier Termination Event, Netlink Star has no obligation to exercise its rights under this clause 32.1 prior to or instead of exercising its right to terminate this Agreement.

## If Netlink Star gives notice that it requires the appointment of a Remedial Adviser:

### the Remedial Adviser shall be:

#### a person selected by the Supplier and approved by Netlink Star; or

#### if none of the persons selected by the Supplier have been approved by Netlink Star (or no person has been selected by the Supplier) within ten (10) Working Days following the date on which the Intervention Notice is given, a person identified by Netlink Star;

### the terms of engagement and start date agreed with the Remedial Adviser must be approved by Netlink Star; and

### any right of Netlink Star to terminate this Agreement pursuant to clause 36.1.1 (Termination by Netlink Star) for the occurrence of that Intervention Cause shall be suspended for sixty (60) Working Days from (and including) the date of the Intervention Notice (or such other period as may be agreed between the Parties)(the “**Intervention Period**”).

## The Remedial Adviser’s overall objective shall be to mitigate the effects of, and (to the extent capable of being remedied) to remedy, the Intervention Cause and to avoid the occurrence of similar circumstances in the future. In furtherance of this objective (but without diminishing the Supplier’s responsibilities under this Agreement), the Parties agree that the Remedial Adviser may undertake any one (1) or more of the following actions:

### observe the conduct of and work alongside the Supplier Personnel to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;

### gather any information the Remedial Adviser considers relevant in the furtherance of its objective;

### write reports and provide information to Netlink Star in connection with the steps being taken by the Supplier to remedy the Intervention Cause;

### make recommendations to Netlink Star and/or the Supplier as to how the Intervention Cause might be mitigated or avoided in the future; and/or

### take any other steps that Netlink Star and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.

## The Supplier shall:

### work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Services recommended by the Remedial Adviser;

### ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to the Assets;

### submit to such monitoring as Netlink Star and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause;

### implement any reasonable recommendations made by the Remedial Adviser that have been approved by Netlink Star within the timescales given by the Remedial Adviser; and

### not terminate the appointment of the Remedial Adviser prior to the end of the Intervention Period without the prior consent of Netlink Star (such consent not to be unreasonably withheld).

## The Supplier shall be responsible for:

### the costs of appointing, and the fees charged by, the Remedial Adviser; and

### its own costs in connection with any action required by Netlink Star and/or the Remedial Adviser pursuant to this clause 32.

## If:

### the Supplier:

#### fails to perform any of the steps required by Netlink Star in an Intervention Notice; and/or

#### is in Default of any of its obligations under clause 32.4; and/or

### the relevant Intervention Trigger Event is not rectified by the end of the Intervention Period, (each a “**Remedial Adviser Failure**”), Netlink Star shall be entitled to terminate this Agreement pursuant to clause 36.1.1 (Termination by Netlink Star).

# STEP-IN RIGHTS

## On the occurrence of a Step-In Trigger Event, Netlink Star may serve notice on the Supplier (a “**Step-In Notice**”) that it will be taking action under this clause 33 (Step-In Rights), either itself or with the assistance of a third party (provided that the Supplier may require any third parties to comply with a confidentiality undertaking equivalent to clause 24 (Confidentiality)). The Step-In Notice shall set out the following:

### the action Netlink Star wishes to take and in particular the Services that it wishes to control (or appoint a third party to control) (the “**Required Action**”);

### the Step-In Trigger Event that has occurred and whether Netlink Star believes that the Required Action is due to the Supplier’s Default;

### the date on which it wishes to commence the Required Action;

### the time period which it believes will be necessary for the Required Action;

### whether Netlink Star will require access to the Supplier’s premises and/or the Sites; and

### to the extent practicable, the impact that Netlink Star anticipates the Required Action will have on the Supplier’s obligations to provide the Services during the period that the Required Action is being taken.

## Following service of a Step-In Notice, Netlink Star shall:

### take the Required Action, or procure that a third party takes the action, set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;

### be cognisant of any objections raised by the Supplier in respect of the appointment of a third party, though notwithstanding the foregoing, Netlink Star shall be free to take the Required Action or any other action permitted by clause 33.2.1 at its sole discretion;

### keep records of the Required Action taken and provide information about the Required Action to the Supplier;

### co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which Netlink Star is not assuming control; and

### act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of Netlink Star’s rights under this clause 33.

## For so long as and to the extent that the Required Action is continuing, then:

### the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;

### no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of clause 33.4 shall apply to Deductions from Charges in respect of other Services;

### Netlink Star shall pay to the Supplier the Charges after subtracting any applicable Deductions and Netlink Star’s costs of taking the Required Action;

### the Supplier shall cooperate fully with Netlink Star and any third party appointed by Netlink Star under clause 33.2.1 to facilitate the steps taken;

### the Supplier shall grant and procure that any Sub-contractor or relevant third party grants such licences and permissions as are reasonably required provided that these result in no additional cost to either Netlink Star or the Supplier; and

### the Supplier shall afford (and procure that its Sub-contractors afford as applicable) to Netlink Star such cooperation, access to and use of (as applicable):

#### such equipment, goods, services, premises, personnel, documents, information and other items as are reasonably required to provide the Services;

#### the Supplier’s Intellectual Property Rights used in relation to the Services (excluding any source code); and

#### premises, equipment, personnel, documents, information or other items as are reasonably required.

## If the Supplier demonstrates to the reasonable satisfaction of Netlink Star that the Required Action has resulted in:

### the degradation of any Services not subject to the Required Action; or

### the non-Achievement of a Milestone,

beyond that which would have been the case had Netlink Star not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges.

## Before ceasing to exercise its step-in rights under this clause 33 Netlink Star shall deliver a written notice to the Supplier (a “**Step-Out Notice**”), specifying:

### the Required Action it has actually taken; and

### the date on which Netlink Star plans to end the Required Action (the “**Step-Out Date**”) subject to Netlink Star being satisfied with the Supplier’s ability to resume the provision of the Services and the Supplier’s plan developed in accordance with clause 33.6.

## The Supplier shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days prior to the Step-Out Date, develop for Netlink Star’s approval a draft plan (a “**Step-Out Plan**”) relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Agreement.

## If Netlink Star does not approve the draft Step-Out Plan, Netlink Star shall inform the Supplier of its reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to Netlink Star for Netlink Star’s approval. Netlink Star shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

## The Supplier shall bear its own costs in connection with any step-in by Netlink Star under this clause 33, provided that Netlink Star shall reimburse the Supplier’s reasonable additional expenses incurred directly as a result of any step-in action taken by Netlink Star under:

### limbs (c) or (d) of the definition of a Step-In Trigger Event; or

### limbs (e), (f) and (g) of the definition of a Step-In Trigger Event (insofar as the primary cause of Netlink Star serving the Step-In Notice is identified as not being the result of the Supplier’s Default).

# NETLINK STAR CAUSE

## Notwithstanding any other provision of this Agreement, if the Supplier has failed to:

### Achieve a Milestone by its Milestone Date;

### provide the Operational Services in accordance with the Target Performance Levels; and/or

### comply with its obligations under this Agreement,

(each a “**Supplier Non-Performance**”), and can demonstrate that the Supplier Non-Performance would not have occurred but for a Netlink Star Cause, then (subject to the Supplier fulfilling its obligations in this clause 34):

#### the Supplier shall not be treated as being in breach of this Agreement to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by Netlink Star Cause;

#### Netlink Star shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance:

##### to terminate this Agreement pursuant to clause 36.1.1 (Termination by Netlink Star); or

##### to take action pursuant clauses 32 (Remedial Adviser) or 33 (Step-In);

#### where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:

##### the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by Netlink Star Cause;

##### if Netlink Star, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from Netlink Star Cause;

##### if the Milestone is a Key Milestone, the Supplier shall have no liability to pay any Delay Payments associated with the Key Milestone to the extent that the Supplier can demonstrate that such failure was caused by Netlink Star Cause; and

##### the Supplier shall be entitled to claim compensation subject to and in accordance with the principles set out in Paragraph 2 of Part C of Schedule 7.1 (Charges and Invoicing); and/or

#### where the Supplier Non-Performance constitutes a Performance Failure:

##### the Supplier shall not be liable to accrue Service Credits;

##### Netlink Star shall not be entitled to withhold any of the Service Charges pursuant to clause 8.2.3(b) (Performance Failures);

##### Netlink Star shall not be entitled to withhold and retain any Compensation for Unacceptable KPI Failure pursuant to clause 8.4.1 (Unacceptable KPI Failure); and

##### the Supplier shall be entitled to invoice for the Service Charges for the relevant Operational Services affected by the Netlink Star Cause,

in each case, to the extent that the Supplier can demonstrate that the Performance Failure was caused by Netlink Star Cause.

## In order to claim any of the rights and/or relief referred to in clause 34.1, the Supplier shall as soon as reasonably practicable (and in any event within ten (10) Working Days) after becoming aware that an Netlink Star Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give Netlink Star notice (a “**Relief Notice**”) setting out details of:

### the Supplier Non-Performance;

### the Netlink Star Cause and its effect, or likely effect, on the Supplier’s ability to meet its obligations under this Agreement;

### any steps which Netlink Star can take to eliminate or mitigate the consequences and impact of such Netlink Star Cause; and

### the relief and/or compensation claimed by the Supplier.

## Following the receipt of a Relief Notice, Netlink Star shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Netlink Star Cause and whether it agrees with the Supplier’s assessment set out in the Relief Notice as to the effect of the relevant Netlink Star Cause and its entitlement to relief and/or compensation, consulting with the Supplier where necessary.

## The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Netlink Star Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

## Without prejudice to clause 5.10 (Continuing obligation to provide the Services), if a Dispute arises as to:

### whether a Supplier Non-Performance would not have occurred but for a Netlink Star Cause; and/or

### the nature and/or extent of the relief and/or compensation claimed by the Supplier,

either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.

## Any Change that is required to the Implementation Plan or to the Charges pursuant to this clause 34 shall be implemented in accordance with the Change Control Procedure.

# FORCE MAJEURE

## Subject to the remaining provisions of this clause 35 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule 8.6 (Business Continuity and IT Service Continuity)), a Party may claim relief under this clause 35 from liability for failure to meet its obligations under this Agreement for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Agreement which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

## The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

## If the Supplier is the Affected Party, it shall not be entitled to claim relief under this clause 35 to the extent that consequences of the relevant Force Majeure Event:

### are capable of being mitigated by any of the Services including the Business Continuity Services and IT Service Continuity Management Services, but the Supplier has failed to do so; and/or

### should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Agreement.

## Subject to clause 35.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.

## The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

## Where, as a result of a Force Majeure Event:

### an Affected Party fails to perform its obligations in accordance with this Agreement, then during the continuance of the Force Majeure Event:

#### the other Party shall not be entitled to exercise any rights to terminate this Agreement in whole or in part as a result of such failure other than pursuant to clause 36.1.3 (Termination by Netlink Star) or clause 36.3.2 (Termination by the Supplier); and

#### neither Party shall be liable for any Default arising as a result of such failure;

### the Supplier fails to perform its obligations in accordance with this Agreement:

#### Netlink Star shall not be entitled:

##### during the continuance of the Force Majeure Event to exercise its rights under clause 32 (Remedial Adviser) and/or clause 33 (Step-In Rights) as a result of such failure;

##### to receive Delay Payments pursuant to clause 31 (Delay Payments) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and

##### to receive Service Credits, to withhold any of the Service Charges pursuant to clause 8.2.3(b) (Performance Failures) or withhold and retain any of the Service Charges as compensation pursuant to clause 8.4.1 (Unacceptable KPI Failure) to the extent that a Performance Failure has been caused by the Force Majeure Event; and

#### the Supplier shall be entitled to receive payment of the Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of this Agreement during the occurrence of the Force Majeure Event.

## The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement.

## Relief from liability for the Affected Party under this clause 35 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Agreement and shall not be dependent on the serving of notice under clause 35.7.

**SECTION I – TERMINATION AND EXIT MANAGEMENT**

# TERMINATION RIGHTS

Termination by Netlink Star

## Netlink Star may terminate this Agreement by issuing a Termination Notice to the Supplier:

### for convenience at any time, effective 90 days from issue of such Termination Notice, except where the Agreement should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU in which case such notice may be effective immediately. If such termination for convenience occurs prior to final acceptance of the Initial Transition Project then Supplier shall not be required to pay any amounts it has received or due in respect of Milestones which have been Achieved;

### if a Supplier Termination Event occurs;

### if a Force Majeure Event endures for a continuous period of more than ninety (90) days; or

### if the Agreement has been amended to the extent that the Utilities Contracts Regulations require a new procurement procedure,

and this Agreement shall terminate on the date specified in the Termination Notice.

## Where Netlink Star:

### is terminating this Agreement under clause 36.1.2 due to the occurrence of either limb (b) and/or (i) and/or (j) of the definition of Supplier Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default; and/or

### wishes to terminate this Agreement under clause 36.1.1 it may, prior to or instead of terminating the whole of the Agreement, serve a Termination Notice requiring the partial termination of this Agreement, the termination of any element(s) of the Services and/or the termination or partial termination of any one or more Project Sheets; and/or

### has the right to terminate this Agreement under clause 36.1.2 or clause 36.1.3, it may, prior to or instead of terminating the whole of this Agreement, serve a Termination Notice requiring the partial termination of this Agreement to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

Notwithstanding clause 36.2 above but subject to clause 33, unless Netlink Star terminates this Agreement in full, at a minimum Netlink Star shall continue to pay the Base Overhead Charges and the Supplier shall always continue to provide the associated Services.

Termination by the Supplier

## The Supplier may, by issuing a Termination Notice to Netlink Star, terminate:

### this Agreement if Netlink Star fails to pay an undisputed sum due to the Supplier under this Agreement which in aggregate exceeds £500,000.00and such amount remains outstanding forty (40) Working Days after the receipt by Netlink Star of a notice of non-payment from the Supplier; or

### any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than ninety (90) days,

and this Agreement or the relevant Services (as the case may be) shall then terminate on the date specified in the Termination Notice (which shall not be less than twenty (20) Working Days from the date of the issue of the Termination Notice). If the operation of clause 36.3.2 would result in a Partial Termination, the provisions of clause 36.4 (Partial Termination) shall apply.

Partial Termination

## If the Supplier notifies Netlink Star pursuant to clause 36.3.2 (Termination by the Supplier) that it intends to terminate this Agreement in part and Netlink Star, acting reasonably, believes that the effect of such Partial Termination is to render the remaining Services incapable of meeting a significant part of Netlink Star Requirements, then Netlink Star shall be entitled to terminate the remaining part of this Agreement by serving a Termination Notice to the Supplier within one (1) month of receiving the Supplier’s Termination Notice. For the purpose of this clause 36.4, in assessing the significance of any part of Netlink Star Requirements, regard shall be had not only to the proportion of that part to the Netlink Star Requirements as a whole, but also to the importance of the relevant part to Netlink Star.

## The Parties shall agree the effect of any Change necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Charges, provided that:

### the Supplier shall not be entitled to an increase in the Charges in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Supplier Termination Event;

### any adjustment to the Charges (if any) shall be calculated in accordance with the Financial Model and must be reasonable; and

### the Supplier shall not be entitled to reject the Change.

Suspension

## Without prejudice to any other rights available to it at law or pursuant to this Agreement, if the right for Netlink Star to terminate this Agreement either partially or in full arises pursuant to this clause 36, Netlink Star may choose in the alternative and in its absolute discretion to suspend the provision of the Services by providing a Suspension Notice to the Supplier.

# CONSEQUENCES OF EXPIRY OR TERMINATION

General Provisions on Expiry or Termination

## The provisions of clauses 5.8 (Specially Written Software warranty), 12.5 and 12.6 (VAT), 12.8 and 12.9 (Set-off and Withholding), 14 (Records, Reports & Audits), 16.7 (Employment Indemnity), 16.8 (Income Tax and National Insurance Contributions), 18 (Intellectual Property Rights), 19 (Licences Granted by the Supplier), 22.1 (IPRs Indemnity), , 24 (Confidentiality), 25 (Freedom of Information), 26 (Protection of Personal Data), 28 (Limitations on Liability), 37 (Consequences of Expiry or Termination), 44 (Severance), 46 (Entire Agreement), 47 (Third Party Rights), 49 (Disputes), 50 (Governing Law and Jurisdiction) and 52 (Intermediaries Legislation), and the provisions of Schedules shall survive the termination or expiry of this Agreement.

Exit Management

## The Parties shall comply with the provisions of Schedule 8.5 (Exit Management) and any current Exit Plan in relation to orderly transition of the Services to Netlink Star or a Replacement Supplier.

Payments by Netlink Star

## If this Agreement is terminated by Netlink Star pursuant to clause 36.1.1 (Termination by Netlink Star) or by the Supplier pursuant to clause 36.3.1 (Termination by the Supplier), Netlink Star shall pay the Supplier the following payments (which shall be the Supplier’s sole remedy for the termination of this Agreement):

### the Termination Payment (as applicable); and

## If this Agreement is terminated (in part or in whole) by Netlink Star pursuant to clauses 36.1.2, 36.1.3 and/or 36.2 (Termination by Netlink Star) and/or by the Supplier pursuant to clause 36.3.2, or the Term expires, the only payments that Netlink Star shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

### payments in respect of any Assets or apportionments in accordance with Schedule 8.5 (Exit Management); and

### payments in respect of unpaid Charges for Services received up until the Termination Date.

## Unless otherwise set out in this Agreement and/or a relevant Schedule, the costs of termination incurred by the Parties shall lie where they fall if:

### either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event pursuant to clauses 36.1.3 or 36.2.3 (Termination by Netlink Star) or 36.3.2 (Termination by the Supplier); or

### Netlink Star terminates this Agreement under clause 36.1.4.

Payments by the Supplier

## In the event of termination or expiry of this Agreement, the Supplier shall repay to Netlink Star all Charges it has been paid in advance in respect of Services not provided by the Supplier as at the date of expiry or termination.

## If this Agreement is terminated (in whole or in part) by Netlink Star pursuant to clause 36.1.1 (Termination by Netlink Star) prior to Achievement of one or more CPP Milestones, Netlink Star may at any time on or within twelve (12) months of the issue of the relevant Termination Notice by issue to the Supplier of written notice (a “**Milestone Adjustment Payment Notice**”) require the Supplier to repay to Netlink Star an amount equal to the aggregate Milestone Adjustment Payment Amounts in respect of each CPP Milestone to which the Milestone Adjustment Payment Notice relates.

## A Milestone Adjustment Payment Notice shall specify:

### each CPP Milestone to which it relates;

### in relation to each such CPP Milestone, each Deliverable relating to that CPP Milestone that Netlink Star wishes to retain, if any (each such Deliverable being a “**Retained Deliverable**”); and

### those Retained Deliverables, if any, the Allowable Price for which Netlink Star considers should be subject to deduction of an adjusting payment on the grounds that they do not or will not perform in all material respects in accordance with their specification (such adjusting payment being an “**Allowable Price Adjustment**”),

and may form part of a Termination Notice.

## The Supplier shall within ten (10) Working Days of receipt of a Milestone Adjustment Payment Notice, in each case as applicable:

### notify Netlink Star whether it agrees that the Retained Deliverables which Netlink Star considers should be subject to an Allowable Price Adjustment as specified in the relevant Milestone Adjustment Payment Notice should be so subject; and

### in relation to each such Retained Deliverable that the Supplier agrees should be subject to an Allowable Price Adjustment, notify Netlink Star of the Supplier’s proposed amount of the Allowable Price Adjustment and the basis for its approval;

### provide Netlink Star with its calculation of the Milestone Adjustment Payment Amount in respect of each CPP Milestone the subject of the relevant Milestone Adjustment Payment Notice using its proposed Allowable Price Adjustment, including details of:

#### all relevant Milestone Payments; and

#### the Allowable Price of each Retained Deliverable; and

### provide Netlink Star with such supporting information as Netlink Star may require.

## If the Parties do not agree the calculation of a Milestone Adjustment Payment Amount within twenty (20) Working Days of the Supplier’s receipt of the relevant Milestone Adjustment Payment Notice, either Party may refer the Dispute to the Dispute Resolution Procedure.

## If Netlink Star issues a Milestone Adjustment Payment Notice pursuant to clause 37.7:

### Netlink Star shall:

#### securely destroy or return to the Supplier all Non-retained Deliverables that are in tangible form; and

#### ensure that all Non-retained Deliverables that are held in electronic, digital or other machine-readable form cease to be readily accessible (other than by the information technology staff of Netlink Star) from any computer, word processor, voicemail system or any other device containing such all Non-retained Deliverables,

in each case as soon as reasonably practicable after repayment of the aggregate Milestone Adjustment Payment Amounts repayable pursuant to that Milestone Adjustment Payment Notice; and

### all licences granted pursuant to clause 19 (Licences granted by the Supplier) in respect of any Supplier Non-COTS Software and/or Supplier Background IPRs shall terminate upon such repayment to the extent that they relate to the Non-retained Deliverables and Netlink Star shall, upon request by the Supplier, reassign to the Supplier any title that Netlink Star has (if any) to, and all rights and interest (if any) that Netlink Star has in, any Specially Written Software and Project Specific IPRs to the extent that these form part of the Non-retained Deliverables.

**SECTION J – MISCELLANEOUS AND GOVERNING LAW**

# COMPLIANCE

Health and Safety

## The Supplier shall perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

### all applicable Law regarding health and safety; and

### the Health and Safety Policy whilst at Netlink Star Premises.

## Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at Netlink Star Premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. The Supplier shall instruct the Supplier Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

Equality and Diversity

## The Supplier shall:

### perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

#### all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

#### Netlink Star’s equality and diversity policy as provided to the Supplier from time to time; and

#### any other requirements and instructions which Netlink Star reasonably imposes in connection with any equality obligations imposed on Netlink Star at any time under applicable equality Law; and

### take all reasonable steps to secure the observance of clause 38.3.1 above by its employees, agents, representatives and Sub-contractors.

### take all necessary steps, and inform Netlink Star of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

## The Supplier acknowledges that Netlink Star is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination (on the grounds of a Relevant Protected Characteristic), to advance equality of opportunity, and to foster good relations, between persons who share a Relevant Protected Characteristic and persons who do not share it. In performing its obligations under this Agreement, the Supplier shall assist and co-operate with Netlink Star where possible in satisfying this duty.

Official Secrets Act and Finance Act

## The Supplier shall comply with the provisions of:

### the Official Secrets Acts 1911 to 1989; and

### section 182 of the Finance Act 1989.

# LONDON LIVING WAGE

## The Supplier shall and shall procure that its relevant Sub-contractors shall:

### ensure that none of its workers or its Sub-contractors’ workers engaged in the performance of this Agreement in the Greater London Area (but not otherwise) and who would also satisfy the eligibility criteria set by the Living Wage Foundation (or any replacement thereof) are paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage; and

### co-operate and provide all reasonable assistance to Netlink Star in monitoring the effect of the London Living Wage.

## If the London Living Wage increases during the Term, the Supplier shall not be entitled to adjust the Charges and the Parties agree and acknowledge that any increases in the London Living Wage anticipated during the Term have been factored into the Charges.

## Any failure by the Supplier to comply with the provisions of clause 39 shall be treated as a material breach under this Agreement.

# ASSIGNMENT AND NOVATION

## The Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of Netlink Star.

## Netlink Star may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:

### any Central Government Body; or

### to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by Netlink Star,

and the Supplier shall, at Netlink Star’s request, enter into a novation agreement in such form as Netlink Star shall reasonably specify in order to enable Netlink Star to exercise its rights pursuant to this clause 40.2.

## A change in the legal status of Netlink Star shall not (subject to clause 40.4) affect the validity of this Agreement and this Agreement shall be binding on any successor body to Netlink Star.

## If Netlink Star assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds Netlink Star (any such body a “**Successor Body**”), the Supplier shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of Netlink Star under limb (k) of the definition of Supplier Termination Event (as if references in that limb (k) to the Supplier and the Guarantor and references to a Party in the definition of Insolvency Event were references to the Successor Body).

# WAIVER AND CUMULATIVE REMEDIES

## The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

# RELATIONSHIP OF THE PARTIES

Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

# PREVENTION OF FRAUD AND BRIBERY

## The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Effective Date:

### committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

### been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

## The Supplier, and using best endeavours procure that the Supplier Personnel, shall not during the term of this Agreement:

### commit a Prohibited Act; and/or

### do or suffer anything to be done which would cause Netlink Star or any of Netlink Star’s employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

## The Supplier shall during the term of this Agreement:

### establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

### keep appropriate records of its compliance with its obligations under clause 43.3.1 and make such records available to Netlink Star promptly on request;

### keep appropriate records of any gifts or hospitality, whether directly or indirectly given or received in connection with this Agreement, and make such records available to Netlink Star on request. The Supplier shall be responsible for notifying Netlink Star of any gift or hospitality, whether directly or indirectly given or received in connection with this Agreement, which has a value of more than £15;

### comply with Netlink Star’s code of business ethics and corporate hospitality, conflicts of interests and speak out (whistleblowing) policies and any updates thereof;

### conduct reasonable and proportionate due diligence on any person or Subcontractor who is to perform services or provide goods in connection with this Agreement, before engaging with such person, to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and

### ensure that any person or Sub-contractor associated with the Supplier who is performing services or providing goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such persons terms at least equivalent to those imposed on the Supplier in this clause 43. The Supplier shall be responsible for the observance and performance, by such persons or Sub-contractors, of this clause 43, and shall be directly liable to Netlink Star for any breach by such persons of this clause 43.

## The Supplier shall immediately notify Netlink Star in writing if it becomes aware of any breach of clause 43.1 and/or 43.2, or has reason to believe that it has or any of the Supplier Personnel have:

### been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

### been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

### received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.

## If the Supplier makes a notification to Netlink Star pursuant to clause 43.3.6, the Supplier, and using best endeavours procure that the Supplier Personnel, shall respond promptly to Netlink Star’s enquiries, co-operate with any investigation, and allow Netlink Star to Audit any books, Records and/or any other relevant documentation in accordance with clause 14 (Records, Reports &Audits).

## If the Supplier, or the Supplier’s Personnel (whether acting in the Supplier’s knowledge or otherwise), is in Default under clauses 43.1 and/or 43.2, 43.3, and/or any of 43.9 to 43.11 Netlink Star may by notice:

### require the Supplier to remove from performance of this Agreement any Supplier Personnel whose acts or omissions have caused the Default; or

### immediately terminate this Agreement.

## Any termination under clause 43.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to Netlink Star.

## Any notice served by Netlink Star under clause 43.6 shall specify the nature of the Prohibited Act, the identity of the Party who Netlink Star believes has committed the Prohibited Act and the action that Netlink Star has elected to take (including, where relevant, the date on which this Agreement shall terminate).

## The Supplier shall comply with all anti-slavery legislation, including the Modern Slavery Act 2015.

## The Supplier shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chain.

## The Supplier shall use reasonable endeavours not to purchase any raw materials, resources or products from any country that has been sourced from producers or manufacturers using forced labour in its operations or practice.

# SEVERANCE

## If any provision of this Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Agreement are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Agreement shall not be affected.

## In the event that any deemed deletion under clause 44.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that is reasonably possible, achieves the Parties’ original commercial intention.

## If the Parties are unable to agree on the revisions to this Agreement within 5 Working Days of the date of the notice given pursuant to clause 44.2, the matter shall be dealt with in accordance with Paragraph 4 (Commercial Negotiation) of Schedule 8.3 (Dispute Resolution Procedure) except that if the representatives are unable to resolve the dispute within thirty (30) Working Days of the matter being referred to them, this Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Agreement is terminated pursuant to this clause 44.3.

# FURTHER ASSURANCES

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

# ENTIRE AGREEMENT

## This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

## Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.

## Nothing in this clause 46 shall exclude any liability in respect of misrepresentations made fraudulently.

# THIRD PARTY RIGHTS

## The provisions of clause 22.1 (IPRs Indemnity), Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C and Paragraphs 1.4, 2.3 and 2.8 of Part D of Schedule 11 (Staff Transfer) and the provisions of Paragraph 6.9 of Schedule 8.5 (Exit Management) (together “**Third Party Provisions**”) confer benefits on persons named in such provisions other than the Parties (each such person a “**Third Party Beneficiary**”) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

## Subject to clause 47.1, a person who is not a Party to this Agreement has no right under the CRTPA to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of Netlink Star, which may, if given, be given on and subject to such terms as Netlink Star may determine.

## Any amendments or modifications to this Agreement may be made, and any rights created under clause 47.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

# NOTICES

## Any notices sent under this Agreement must be in writing.

## Subject to clause 48.6, the following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

## 

|  |  |  |
| --- | --- | --- |
| **Manner of Delivery** | **Deemed time of service** | **Proof of service** |
| Email | 9.00am on the first Working  Day after sending | Dispatched as a pdf attachment to an email to the correct email address without any error message. |
| Personal delivery | On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day. | Properly addressed and delivered as evidenced by signature of a delivery receipt. |
| Prepaid, Royal Mail Signed for 1st Class or other prepaid, next working day service providing proof of delivery. | At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same  Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm). | Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt. |

## Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:

|  |  |  |
| --- | --- | --- |
|  | **Supplier** | **Netlink Star** |
| **Contact** | Company Secretary | Company Secretary  Netlink Star Infrastructure  Limited |
| **Address** | 1 Blotten Vu, Woking, Surrey, KR98 6DB | 1 Elysian Street  London  EE7 2DN |
| **Email** | [companysecretary.uk@Quroserv.com](mailto:companysecretary.uk@capgemini.com) | notices@net.co.uk |

## Where any information or documentation is to be provided or submitted to the Representatives it shall be provided signed by or on behalf of the party giving it and shall be served by sending it to the addresses set out below:

|  |  |  |
| --- | --- | --- |
|  | **Supplier Representative** | **Netlink Star Representative** |
| **Contact** | Company Secretary | Company Secretary  Netlink Star Infrastructure  Limited |
| **Address** | 1 Blotten Vu, Woking, Surrey, KR98 6DB | 1 Elysian Street  London  EE7 2DN |
| **Email** | [companysecretary.uk@Quroserv.com](mailto:companysecretary.uk@capgemini.com) | notices@net.co.uk |

## The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in the table in clause 48.2:

### Step-In Notices;

### Force Majeure Notices;

### notices issued by the Supplier pursuant to clause 36.3 (Termination by the Supplier);

### Termination Notices; and

### Dispute Notices.

## Failure to send any original notice by personal delivery or recorded delivery in accordance with clause 48.6 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in clause 48.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

## This clause 48 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under Schedule 8.3 (Dispute Resolution Procedure)).

# DISPUTES

## The Parties shall resolve Disputes arising out of or in connection with this Agreement in accordance with the Dispute Resolution Procedure.

## The Supplier shall continue to provide the Services in accordance with the terms of this Agreement until a Dispute has been resolved.

# GOVERNING LAW AND JURISDICTION

## This Agreement and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

## Subject to clause 49 (Disputes) and Schedule 8.3 (Dispute Resolution Procedure) (including Netlink Star’s right to refer the dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

# COUNTERPARTS/DUPLICATES

## This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but which shall together constitute one agreement.

## This Agreement may be executed in duplicate, each of which shall constitute an original.

# INTERMEDIARIES LEGISLATION

The Services provided through this Agreement are assessed by Netlink Star to fall under the Intermediaries Legislation and:

## the Supplier shall comply with the Intermediaries Legislation and all reasonable instructions and requests for information from Netlink Star in respect thereof;

## the Supplier shall supply all the information required, and to any specified time, for Netlink Star to report to the Department for Transport and HM Treasury as to compliance with the Intermediaries Legislation including the number of workers affected;

## the Supplier shall be liable for and shall indemnify Netlink Star against all and any loss, damage, cost, expense, liability, claims and proceedings whatsoever in respect of a failure of the Supplier to comply with this clause 52;

Netlink Star shall provide all reasonably requested information within a reasonable timescale to support the Supplier in its compliance with the Intermediaries Legislation; and

## Failure by the Supplier to comply with this clause 52 shall be a Supplier Termination Event

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | For and on behalf of | |  | For and on behalf of | | | **Netlink Star Infrastructure Limited** | |  | **Quroserv UK PLC** | | | Signature: |  |  | Signature: |  | |  |  |  |  |  | | Name: |  |  | Name: |  | |  |  |  |  |  | | Title: |  |  | Title: | UK Legal Finance Director | |

## .

**APPENDIX 1**

**COLLABORATION AGREEMENT**

|  |
| --- |
|  |
|  |
|  |
| Dated |
| Netlink Star Infrastructure Limited  (Customer)  [XXX]  (Supplier)  and  each person who has separately executed a valid Accession Agreement in the form set out in Schedule 2  (Acceding Members) |

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Dated

Between

1. NETLINK STAR INFRASTRUCTURE LIMITED (registered in England & Wales as company number 9666661) and having its registered office at 1 Elysian Street, London EE7 2DN (“the Employer”, which term shall include its successors and assigns (**Customer**);
2. [SUPPLIER 1 DETAILS];
3. [SUPPLIER 2 DETAILS]; **[Note to Bidders: Number of suppliers involved to be confirmed]** each a **Member;**

and

1. each person who has separately executed a valid Accession Agreement in the form set out in Schedule 2 (Accession Agreement) of this Agreement(the **Acceding Members**),

together the **Parties** and each a **Party**.

Background

1. The Members (as defined below) are leading practitioners in advising and consulting on, configuring and engineering, delivering and operating data centre solutions for critical national infrastructure and tools, architecture, and information technology solutions in the asset sector.
2. The Customer intends to migrate its asset set operating centre to a deliver a new centralised data centre capability into two new data centre facilities in order to exit its current legacy end-of-live critical data platforms in order to operate the organisation's Critical Network and IT Infrastructure (CNI), for the safe and efficient operation of the asset set and the Members are all providing Services critical to the success of the Programme (the **Programme**).
3. The Customer has entered into an agreement with each Member (each, a **Services Agreement**) pursuant to which the Customer and the relevant Member have agreed that the relevant Member will provide services to the Customer in connection with the Programme on the terms set out in that agreement (the **Services**).
4. In connection with their respective Services Agreements, the Members wish to enter into this Agreement with each other and with the Customer in order to ensure the smooth and effective delivery of the Programme to the Customer and to document in the necessary level of detail the particulars and Dependencies (as defined below) of the manner in which they will co-operate in providing Services to the Customer, ensure continuity of services in respect of their obligations under their respective Services Agreements and avoid any disruption to the Programme.

It is agreed:

# Interpretation

## Interpretation: This Agreement shall be interpreted in accordance with Schedule 1 (Definitions and interpretation).

## Precedence: If and to the extent of any conflict or inconsistency between:

#### the Clauses and the Schedules and/or any annexes to the Schedules the conflict shall be resolved in accordance with the following order of precedence:

##### the Clauses;

##### the Schedules and the annexes; and

#### this Agreement and a Services Agreement, the conflict shall be resolved in accordance with the following order of precedence:

##### the Services Agreement;

##### this Agreement.

## Cumulative obligations: Where one provision of this Agreement (including its Schedules) imposes upon any of the Parties a standard or duty in relation to any obligation which is more onerous than, or additional to, that imposed by a provision of the relevant Services Agreement in relation to that same obligation, this shall not be treated as a conflict or inconsistency for the purposes of Clause 1.2 (Precedence). Rather the relevant standard or duty in relation to that obligation shall, so far as possible, be treated as cumulative, failing which the more onerous standard or duty shall apply.

# Term

## Term: The obligations and rights of each Party under this Agreement shall become effective upon execution of:

#### in relation to the Customer and a Member, this Agreement **[Note to Bidders: Intention is for this Agreement to be executed at the same time as the Services Agreement.**]; and

#### in relation to an Acceding Member, an Accession Agreement by that Acceding Member and the Customer,

## (the **Collaboration Agreement Commencement Date**) and shall continue in force in relation to each Party until it is terminated in accordance with Clause 13 (Termination) in respect of that Party (the **Term**). This Agreement shall remain in force in respect to any remaining Parties pursuant to Clause 14.3 (Remaining Members).

## Undertaking: Each Party undertakes and agrees with each other Party that it will be bound by, and comply with, the terms of this Agreement, as may be amended from time to time in accordance with Clause 18 (Amendments), for the Term. This Clause 2.2 is not conditional upon signature of this Agreement by any other Party (except that this Agreement shall initially take effect in accordance with Clause 2.1(a) (Term)) and shall apply to and have effect in respect to all Parties from time to time, regardless of whether they become a Party by executing this Agreement, or pursuant to an Accession Agreement.

## Members: A "Member" shall be:

#### **[Note to Bidders: Insert Suppliers entering into this Agreement at date of signature]**

#### each person which after the date of this Agreement, executes an Accession Agreement together with the Customer,

#### provided that it has not ceased to be a Member pursuant to Clause 13 (Termination). For the avoidance of doubt, the provisions of Clause 2.2 (Undertaking) shall apply to and have effect in respect to all Members from time to time and the expression "**Member**" shall include all such Members from time to time.

# Accession

## New Member: The Customer shall have the sole and absolute right to, at any time, agree with a third party that it will become a Member for the purposes of this Agreement through the execution of an Accession Agreement in the form set out in Schedule 2 (Accession Agreement). Upon execution of an Accession Agreement, the Customer shall notify the Members of the addition of the new Member.

## No objection: No Member shall be entitled to object to the addition of a new Member to this Agreement. All of the Parties to this Agreement prior to the execution of an Accession Agreement shall remain bound by the terms of this Agreement following execution of the Accession Agreement and in addition, from the date on which the relevant Accession Agreement was executed, the new Member shall have all of the rights and obligations of a Member under this Agreement.

## Consequential Changes: Where a new Member becomes a Party under this Agreement and the Customer considers that consequential changes are required to this Agreement, such changes shall be subject to the variation procedure set out in Clause 18 (Amendments).

# Purpose

This Agreement is intended to create binding rights and obligations between the Members with each other and with the Customer to individually and collectively enable:

#### each Party to co-operate with each other Party in order that the Members are able to provide their Services in accordance with the terms of their respective Services Agreements, to the extent required for the successful delivery of the Programme;

#### the Members to ensure that their delivery of the Services, to the fullest extent possible, supports the successful delivery of the Programme in a manner that achieves the Purpose in the most efficient and effective way;

#### the Members to work collectively to perform the Services, deliver the Dependencies to successfully deliver the Programme;

#### the Customer to achieve the upskilling and development of its staff; and

#### continued delivery of value to the Customer and that the data centre can continue to evolve and meet the requirements of the Customer as well as increased return on the Customer's investment in the future,

#### (the **Programme Objectives**).

# Cooperation and Collaboration

## In order to ensure the effective delivery of the Programme Objectives, the Members shall co-operate with Customer and each Member and Customer's other suppliers, sub-contractors, agents, representatives and professional advisors and such other parties as may be reasonably necessary in connection with the Programme and the performance of the Services, to ensure its Services (and the Services to be provided by each other Member) can be provided in a co-ordinated, effective and timely manner as required to achieve the Member Behaviours and Programme Objectives. Without limitation to the foregoing, each Member shall perform its Services in a manner that meets or exceeds any measures set out in the Operating Level Agreement.

# Dependencies

## Recording Dependencies: Each of the Parties shall clearly identify and document its Dependencies on each other Party including the Dependencies it has on the Customer, other Members and the Dependencies other Members have on it in relation to the provision of their Services. In relation to Dependencies:

#### on the Customer, the Dependencies (if any) shall be set out in the relevant Services Agreement; and

#### between the Members, the Dependencies (if any) shall be set out in Schedule [X] [**Note to Bidders: At this stage, the programme is in the process of identifying clear inter-Dependencies between each Supplier. If these arise through the Programme, then these will be identified under Clause 6.2 and the rest of Clause 6 will apply.]**

## New Dependencies: The Members agree to work together in order to identify and notify each other of any Dependencies on each other that may arise following the relevant Collaboration Agreement Commencement Date (whether by virtue of a change to any of the Services Agreements, or otherwise) or which may have been previously unidentified, by collating the Dependencies specified in the individual Services Agreements in **[Note to Bidders: applicable references to be inserted]** and adding any Dependencies which may have been previously unidentified.

## Failure: Where a Member fails to perform, or is likely to fail to perform, any relevant Dependency (the Defaulting Supplier) and this results, or is likely to result, in any other Member (the Non-Defaulting Supplier) being directly or indirectly in breach of their relevant obligations under the relevant Services Agreement then:

#### the Defaulting Supplier and the Non-Defaulting Supplier shall each notify the Customer as soon as either becomes aware of the relevant failure or likely failure, giving reasons for such default or likely default;

#### the Defaulting Supplier and the Non-Defaulting Supplier shall work together to minimise the effect of any failure or likely failure to perform a relevant Dependency on the performance of its obligations under this Agreement and the provision of the Services under the relevant Services Agreement and shall continue to perform any unaffected obligations or Services in accordance with the terms of this Agreement and the relevant Services Agreement;

#### the Non-Defaulting Supplier shall resume the performance of its obligations and the provision of the Services in accordance with this Agreement and the Services Agreement as soon as reasonably practicable after the Defaulting Supplier performs the relevant Dependency;

#### the Non-Defaulting Supplier shall take whatever action it reasonably can to mitigate its losses and to mitigate the effect of the failure or likely failure on its delivery of the Services;

#### the Non-Defaulting Supplier shall give the Defaulting Supplier notification if the Defaulting Supplier’s actual or likely default will result in losses and what the scale of these losses would be; and

#### the Non-Defaulting Supplier shall, as soon as is reasonably practicable, notify the Customer of the failure, default and actions taken by the Parties to mitigate the effect of the failure or default and recover the Services.

## Each Member acknowledges and agrees that, to the maximum extent permitted by Applicable Law, the Customer shall have no liability, whether in contract, tort (including negligence) or otherwise, to any Non-Defaulting Supplier in connection with a Defaulting Supplier's failure to perform, or likely failure to perform, any Dependency.

# Remediation

## Notification: Where a Member:

#### fails or becomes aware that it is likely to fail to comply with any element of its obligations under this Agreement or its Services Agreement, and that failure could impact on the performance of the Services by any other Member, it shall as soon as is reasonably practicable notify the Customer and the other Members in accordance with Schedule 3 (Governance); or

#### (acting reasonably and in good faith) is of the opinion that a requirement set out in this Agreement has not successfully been met by another Member, it shall notify the Customer and the other Members in accordance with Schedule 3 (Governance).

## Resolution: In the event that the Customer has received notice under either Clause 7.1(a) or Clause 7.1(b) and is (acting reasonably and in good faith) of the opinion that a requirement set out in this Agreement or a Services Agreement has not successfully been met by a Member, it may require that the Members meet as soon as is reasonably practicable with a view to resolving the issue. If the Members are unable to resolve the issue (to the Customer's satisfaction) by means of this meeting, the provisions of Clause 15 (Dispute resolution) will apply.

## Customer rights: Without limiting any provision of this Agreement or any Services Agreement, if the Customer is of the opinion that any Member has poorly performed its obligations under this Agreement over the course of two consecutive quarters, it may exercise its rights of termination under Clause 13 (Termination).

# Charges and payment

## The Customer shall pay each Member the Charges for the performance of the Services in accordance with the terms of the relevant Services Agreement. The Charges shall include all costs, fees and expenses of each Member in providing the Services and otherwise performing its obligations in accordance with this Agreement.

# Governance

## Customer Governance: The Members acknowledge that their respective relationships with the Customer are governed by the governance and contract management provisions within the relevant Services Agreement.

## Consortium Governance: In addition to those governance and contract management provisions with the Customer, the Parties' respective representatives shall each comply with their obligations and responsibilities to participate in the meetings and other activities and hold the meetings set out in Schedule 3 (Governance) to discuss the matters identified in that Schedule.

# Intellectual property

## Application: As between the:

#### Customer and any Member, the applicable provisions in relation to ownership and licencing of IPR shall be the relevant provisions in the Services Agreement; and

#### Members, the Members shall separately agree between them the position in relation to ownership and licencing of IPR between the Members.

## Each Member acknowledges and agrees that, to the maximum extent permitted by Applicable Law and except where (and only to the extent) expressly set out otherwise in a Services Agreement, the Customer shall have no liability, whether in contract, tort (including negligence) or otherwise, to any Member in connection with any other Member's use, adaption or modification of the first Member's IPR.

# Confidentiality

## Application: As between:

#### the Customer and any Member, the applicable provisions in relation to Confidential Information shall be the relevant provisions in the Services Agreement and the provisions of this Clause 11 shall not apply; and

#### the Members, the remaining provisions of this Clause 11 shall apply in relation to Confidential Information between the Members.

## Confidential Information: Each Member (the Recipient) undertakes not to disclose at any time and shall treat, and shall procure that each of its employees, directors, sub-contractors, agents, representatives and Affiliates involved in performing this Agreement shall not disclose and shall treat as confidential all Confidential Information of the other Member (the Discloser) pursuant to this Agreement and shall not without the prior written consent of the Discloser divulge, use or copy such Confidential Information, except:

#### with the Discloser's prior consent in writing that the information in question does not need to be treated as confidential; or

#### if the Confidential Information is divulged to:

##### its employees, directors, Approved Sub-Contractor, agents, representatives and Affiliates involved in performing this Agreement (collectively **Agents**), and then only to those who need to know the Confidential Information and who have undertaken to observe the confidentiality obligations in relation to such Confidential Information in their contracts of employment); and/or

##### its auditors, professional advisers, HM Inspector of Taxes, HM Revenue and Customs and any other persons or bodies having a statutory or regulatory right to receive that Confidential Information, and then only in pursuance of such right;

provided that this Clause 11 shall not extend to information which:

##### was rightfully in the possession of the Recipient prior to the commencement of its dealings with the Discloser, or subsequently comes to be in the possession of the Recipient after such date (otherwise than as a result of breach of this Clause 11 and provided that such information was not originally given to it by or on behalf of the Discloser and is not subject to obligations of confidentiality);

##### is already public knowledge or which becomes so at a future date (otherwise than as a result of breach of this Clause 11); or

##### is independently developed by the Recipient without reference to, or any use of Confidential Information and is not derived from Confidential Information.

## Agent notice: The Recipient undertakes to ensure that all its Agents and the persons and bodies mentioned in Clause 11.2(b) (Confidential information) are made aware, prior to the disclosure of any part of the Confidential Information, that it is confidential and agree to keep it confidential on terms no less onerous than those contained in this Clause 11.

## Agent compliance: The Recipient shall ensure the compliance by its Agents, and any person employed or engaged by its Agents, with the obligations set out in this Clause 11.

## Remedy: The Parties agree that damages may not be an adequate remedy for any breach of this Clause 11 and, notwithstanding Clauses 15 (Dispute Resolution), 16 (Expert determination), 17 (Mediation), the Discloser shall be entitled to seek any legal and/or equitable relief, including an injunction, in the event of any breach of the provisions of this Clause 11 in addition to its other remedies under this Agreement or otherwise at law or in equity.

## Announcements: Unless otherwise required by any Applicable Law (but only to that extent), each Member shall not (and shall ensure that each of their Affiliates shall not) make or permit or procure to be made any public announcement or disclosure (whether for publication in its written literature, the press, the radio, television, screen, the Internet or any other medium) of its involvement in this Agreement or any matters relating to it, without the prior written consent of the other Member.

## Know-how: Nothing in this Agreement shall be so construed as to prevent a Member from using data processing techniques, ideas, know‑how and the like gained during the performance of this Agreement in the furtherance of its normal business, to the extent that this does not result in any disclosure of Confidential Information or infringement of any Intellectual Property Rights of a Member which is not otherwise licensed or permitted under this Agreement.

## Existing confidentiality agreements: **So that there is no doubt:**

#### the provisions of this Clause 11 shall apply to all Confidential Information in connection with this Agreement or disclosed by, or on behalf of, one Member to the another Member on or after the Collaboration Agreement Commencement Date to the exclusion of all other legal and other obligations which may have applied to such information before the Collaboration Agreement Commencement Date;

#### to the extent that information other than that referred to in Clause 11.8(a) was protected by an existing confidentiality agreement between the Members or legal or other obligations before the Collaboration Agreement Commencement Date, nothing in this Agreement shall be taken as affecting those obligations;

#### the provisions of Clause 11.8(a) and Clause 11.8(b) shall be without prejudice to any accrued rights which any Member may have on the Collaboration Agreement Commencement Date in respect of any breach of confidence.

## No Derogation: For the avoidance of doubt, nothing in this Clause 11 shall prejudice or derogate from Customer's full enjoyment of the Services, or from each Member's rights under Clause 10 (Intellectual Property).

# Liability and limitations

## Customer liability: The aggregate liability of Customer to each Member under, or in connection with, this Agreement shall be subject to, and shall not exceed, the exclusions and limitations on the Customer's liability as set out in the relevant Services Agreement. In calculating whether any of the financial limits set out in the Services Agreement have been reached, any liability of the Customer to the relevant Member arising under this Agreement shall be included in such calculation.

## Consortium liability to the Customer and the Customer Group: The aggregate liability of each individual Member directly to the Customer and Customer Group under, or in connection with, this Agreement shall be subject to, and shall not exceed, the exclusions and limitations on the Member's liability as set out in the relevant Services Agreement. In calculating whether any of the financial limits set out in the Services Agreement have been reached, any liability of the Member to the Customer and/or the Customer Group arising under this Agreement shall be included in such calculation. For the avoidance of doubt, any payment paid between Members under his Agreement shall not be included under or count towards the Members liability as set out in the relevant Services Agreement.

## Each Member acknowledges and agrees that, to the maximum extent permitted by Applicable Law, the Customer shall have no liability, whether in contract, tort (including negligence) or otherwise, to any Member for any costs, claims, demands, expenses and liabilities of whatsoever nature arising out of or in connection with any claim which arises from, or in connection with, the default of another Member under or in connection with this Agreement.

## Without limiting Clause 12.3, no Member shall be entitled to recover from the Customer for losses arising from another Member's default, including for any one or more of the following:

#### additional operational costs and expenses in relation to the provision or receipt of the Services which would not otherwise have been incurred by a Member including additional costs to correct and re-perform Services arising from the default;

#### expenditure or charges paid by a Member which would not otherwise have been incurred, would have ceased, or would not have recurred, including (aa) any additional costs incurred by any Member in connection with the Programme, and (bb) any additional systems or operational costs passed to a Member by or on behalf of another Member as a consequence of the relevant default; or

#### the Member’s costs of taking emergency measures, including changing over to other computer systems or engaging third parties.

# Termination

## Termination: This Agreement shall continue in force in relation to each Member until it is terminated in accordance with this Clause [13](#_Termination) in respect to that Member. This Agreement shall remain in force and effect in respect to all other Members and the Customer pursuant to Clause 14.3(a) (Remaining Members).

## Voluntary Termination: The Customer may terminate all or any part of this Agreement in respect to any or all [**Consortium**](#_Termination) Members on 20 Business Days' written notice to the specific [**Consortium**](#_Termination) Member or [**Consortium**](#_Termination) Members at any time.

## Breach: The Customer may terminate this Agreement in respect to a Member or Members (the Breaching Member) immediately on written notice to the Breaching Member if:

#### the Breaching Member in question commits a material breach of this Agreement which is not capable of remedy or, in the case of a breach which is capable of remedy, is not remedied within 10 Business Days of service upon the Breaching Member of a notice specifying the breach and requiring it to be remedied; or

#### a right has arisen for the Customer to terminate the Breaching Member's Services Agreement in accordance with its terms, regardless of whether the Customer exercises that right.

## Automatic termination: Unless terminated earlier pursuant to its terms, this Agreement shall terminate automatically:

#### in respect of a Member, on expiry or termination of that Member's Services Agreement; and

#### in its entirety on expiry or termination of all Members' Services Agreements.

## Not used.

# Consequences of termination

## Termination: Notwithstanding any other provision of this Agreement, on service of a notice of termination, this Agreement shall only terminate in accordance with the provisions of this Clause 14.

## Exiting Members: On termination of this Agreement in accordance with Clause [13](#_Termination) each Member in respect to which it is terminated (an Exiting Member) shall:

#### immediately cease to be a Member; and

#### save as otherwise permitted under its Services Agreement:

##### upon request of the Party that has provided any Intellectual Property Rights or Confidential Information (the **Provider**), immediately return to the Provider, as applicable, or irrevocably destroy or delete (at the Provider's sole option) all Intellectual Property Rights and Confidential Information and all information, documentation and other materials relating to the Intellectual Property Rights and Confidential Information belonging to the Provider; and

##### immediately cease using or otherwise dealing with the Intellectual Property Rights and Confidential Information belonging to the Customer or any other Member (other than the Member who is the Exiting Member).

## Remaining Members: Upon termination of this Agreement in respect to an Exiting Member:

#### this Agreement shall remain in full force and effect in respect to all Members who are not Exiting Members (the **Remaining Members**); and

#### subject to Clause 14.8 (Continuing Obligations), the Remaining Members shall cease to owe any further rights or obligations to the Exiting Member, and subject to Clauses 14.1 (Termination) and 14.8 (Continuing Obligations), the Exiting Member shall cease to owe any further rights or obligations to the Remaining Members.

## Notification: Each Member shall notify Customer in writing of the occurrence, and details, of any material breach of this Agreement by it and of any event or circumstance which is likely, with the passage of time or otherwise, to constitute or give rise to a material breach of this Agreement, in either case promptly on that Member becoming aware of its occurrence.

## Breach of Agreement: Notwithstanding whether Customer exercises its right to terminate this Agreement, the occurrence of any of the events set out in Clause 13.3 (Breach) shall constitute breach of this Agreement, and shall entitle Customer to exercise any right or remedy it may have in connection therewith under this Agreement, at law or in equity.

## Continued effect – no waiver: Notwithstanding any breach of this Agreement by any Party, and without prejudice to any other rights which the other Parties may have in relation to it, the other Parties may elect to continue to treat this Agreement as being in full force and effect and to enforce its rights under this Agreement. The failure of any Party to exercise any right under this Agreement, including any right to terminate this Agreement and any right to claim damages, shall not be deemed a waiver of such right for any continuing or subsequent breach.

## Continued performance: Subject to any exercise by Customer of its rights to perform, or to procure a third party to perform the obligations of any or all Members, the Parties shall continue to perform their obligations under this Agreement, notwithstanding the giving of any notice of default or notice of termination, until the termination of this Agreement becomes effective in accordance with this Agreement.

## Continuing obligations: Save as otherwise expressly provided in this Agreement:

#### expiry or termination of this Agreement shall be without prejudice to any accrued rights and obligations under this Agreement as at the date of such expiry or termination;

#### where this Agreement does not end in its entirety, expiry or termination of any part of the Agreement shall not affect the continuing rights and obligations of the relevant Parties in respect of the other parts of the Agreement; and

#### expiry or termination of this Agreement shall not affect the continuing rights and obligations of the Parties under Clauses 10 (Intellectual property), 11 (Confidentiality), 12 (Liability and Limitations), 14 (Consequences of termination), 15 (Dispute resolution), 16 (Expert determination), 17 (Mediation), 23 (Communications), 30 (Further assurance and good faith), 31 (Governing law and jurisdiction), or under any other provision of this Agreement which is expressed or intended to survive termination or which is required to give effect to such termination or the consequences of such termination.

## No Termination Charges: In the event that the Customer exercises its right to terminate this Agreement (without prejudice to accrued rights and liabilities), no termination charges or any other expenses, compensation or payments shall be due to any Member from Customer in connection with this Agreement.

# Dispute resolution

## Attempt to resolve promptly: If a Dispute arises out of or in connection with this Agreement, then, except as expressly provided otherwise in this Agreement, the Parties shall in good faith attempt to resolve that Dispute promptly.

## Escalation: The Dispute shall be referred for consideration and resolution by the Parties' in accordance with the escalation process set out in Schedule 3 (Governance).

## Further action: If the Dispute cannot be resolved by the Parties' in the escalation process set out in Schedule 3 (Governance) within ten (10) days (or such longer period as may be agreed between them) after it was referred under Clause 15.2 (Escalation) and the Dispute is a:

#### Qualifying Dispute, the Dispute shall be referred to expert determination in accordance with Clause 16 (Expert determination); and

#### Non-Qualifying Dispute, the Dispute shall:

##### initially be referred for mediation in an attempt to reach a binding agreement in accordance with Clause 17 (Mediation); and

##### if no binding agreement is reached in mediation, be referred to and finally resolved by the courts in accordance with Clause 31 (Governing law and jurisdiction).

# Expert determination

## Qualifying Dispute: The Parties must ask a single expert to decide a Dispute arising out of or in connection with:

#### Clause 5 (Cooperation and Collaboration);

#### Clause 6 (Dependencies); or

#### Clause 6.4 (Remediation),

#### provided that the monetary value of the Dispute is less than [x] (£250,000) (a **Qualifying Dispute**).

## Arbitration Act: The expert must act as an expert and not as an arbitrator. The Arbitration Act 1996 and the law of arbitration shall not apply to the expert, to the determination procedure, or to the expert's decision.

## The appointment: To start a determination, one Party must write to the other relevant Parties, identifying the issue and proposing an expert. The relevant Parties must try to agree a jointly appointed expert within 14 days after one Party sends the letter proposing the expert and identifying the issues. After 14 days, if the relevant Parties have not agreed on a joint appointment, any relevant Party may ask the President of the Centre for Effective Dispute Resolution to nominate an expert. The expert nominated by the Centre for Effective Dispute Resolution must be appointed by the Parties.

## The determination: The expert determination must take place in London. The Parties and expert must conduct the determination in English. Once appointed, the expert must deliver a final written decision within 3 months.

## The decision: The expert's final written decision must include full detailed reasons to explain the findings and justify the decision. The expert's decision is final and binds the parties unless there is manifest error by the expert or fraud.

## Other disputes: Clause 31 (Governing Law and jurisdiction) shall apply to all Non-Qualifying Disputes under this Agreement.

# Mediation

## Reference to mediation: The Parties must refer to mediation any Non-Qualifying Dispute in an attempt to reach a binding agreement. This does not affect Clause 31.2 (Jurisdiction).

## Starting mediation: To start a mediation, a Party must give notice in writing to the other parties to the Dispute asking for a mediation under this Clause.

## Appointing a mediator: Within 14 days of the notice under Clause 17.2 (Starting mediation) the parties to the Non-Qualifying Dispute must jointly appoint a single mediator. If they cannot agree on a mediator within those 14 days any party to the Non-Qualifying Dispute may within the following 14 days ask the Centre for Effective Dispute Resolution to appoint a mediator.

## Mediation procedure: The mediation must follow the Centre for Effective Dispute Resolution's Model Mediation Procedure. However, the mediation must end automatically if any Party to it refers the Dispute under mediation to court under Clause 31.2 (Jurisdiction).

# Amendments

## No variation: No variation or amendment to this Agreement other than pursuant to an express provision of this Agreement, shall be effective unless and to the extent that the variation or amendment is agreed in writing by each Party.

## Agreed variations: The Customer shall be entitled to:

### make any minor variation to the terms of this Agreement without the written agreement of the Members, provided that it notifies the Members in writing of any such variation within 10 Business Days of the variation becoming effective; and

### materially vary the terms of this Agreement with the written agreement of all of the Members. The Customer shall notify the Members in writing of any proposed variation or amendment (a **Variation Notice**). Each Member shall notify the Customer in writing within 10 Business Days of receipt of the Variation Notice either that it:

#### agrees to such variation or amendment, in which case any such changes shall be effective, in relation to the Customer and that Member immediately; or

#### does not agree to such variation or amendment, in which case the Parties shall negotiate in good faith to vary and/or amend the terms. However, in the event that agreement cannot be reached, the matter shall be referred for consideration and resolution by the Parties' in accordance with the escalation process set out in Schedule 3 (Governance). If, following completion of the escalation process set out in Schedule 3 (Governance), the Customer does not withdraw the proposed variation or amendment and the Member continues to reject such variation or amendment, the Customer may terminate this Agreement with respect to that Member in accordance with Clause 13

# Cumulative Rights

**Cumulative rights**: The rights and remedies of the Parties in connection with this Agreement are cumulative and, except as expressly stated in this Agreement, are not exclusive of any other rights or remedies provided by this Agreement, law, equity or otherwise. Except as expressly stated in this Agreement (or in law or in equity in the case of rights and remedies provided by law or equity) any right or remedy may be exercised wholly or partially from time to time.

# Waiver

## Waiver: Any relaxation, forbearance, indulgence or delay of either Party in exercising any right, shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any indulgence constitute a waiver of any other right, whether against that Party or any other person.

# Whole Agreement

## Whole agreement: Except where expressly stated otherwise in this Agreement, this Agreement constitutes the whole agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

## No representation: Each Party acknowledges that:

#### it does not enter into this Agreement on the basis of, and does not rely, and has not relied, on any statement or representation (whether negligent or innocent) or warranty or other provision (in any case whether oral or written, express or implied) made or agreed to by any person (whether a Party or not), except those expressly repeated or referred to in this Agreement, and the only remedy or remedies available in respect of any misrepresentation or untrue statement made to it shall be any remedy available under this Agreement; and

#### this Clause 21 shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this Agreement which was induced by fraud, for which the remedies available shall be all those available under the law governing this Agreement.

# Assignment and Sub-contracting

## Binding on assignees: This Agreement and any other agreement in connection with its subject matter to which both Customer and any Member are a party shall be binding on, and shall ensure to the benefit of, that Member and Customer and their respective permitted successors and transferees with effect from the date of such succession or transfer.

## No disposal: Subject to Clause 22.3 (Sub-Contracting to Members), each Member shall not, without the prior written consent of Customer, assign, sub-contract, transfer, charge or otherwise dispose of any interest in this Agreement except to an Approved Sub-Contractor. Each Member shall remain responsible for the acts and omissions of all of its Approved Sub-Contractors as though they were its own.

## Sub-Contracting to Members: A Member (the Sub-Contracting Member) may sub-contract an immaterial part of its Services to any other Member or Members without the prior written consent of the Customer, provided that:

#### the Sub-Contracting Member provides prior written notice to the Customer;

#### there is no increase in the Charges to the Customer or impact on the Programme; and

#### the Sub-Contracting Member shall remain responsible for the acts and omissions of the Member performing the Sub-Contracting Member's Services as though they were its own.

## Customer disposal: Customer may at all times assign, sub-contract, transfer, charge or otherwise dispose of any interest in this Agreement:

#### to any other member of the Customer Group;

#### to any third party, subject to each Member's prior written consent (such consent not to be unreasonably withheld or delayed).

## No further sub-contracting: Without prejudice to Clause 22.1 (Binding on assignees) and Clause 22.2 (No disposal), each Member shall procure that none of its Approved Sub-Contractors shall sub-contract any of their obligations or functions under the relevant sub-contract without the prior written consent of Customer.

# Communications

## Notices between Parties: All notices given by any Party to any other Party under this Agreement shall be in writing and served by delivering the same by hand or sending the same by pre-paid first class or registered post to an address in England, Wales or Scotland. In addition, notices given by the Parties under this Agreement can also be by facsimile or by email (provided that any notice sent by email is confirmed by sending a copy of the notice by pre-paid first class or registered post), to the address and for the attention of the relevant Party set out below:

**[Note to Bidders: Details to be inserted in final draft]**

**If to Customer:**

For the attention of: Company Secretary

Address:

**If to [Supplier details]:**

For the attention of:

Address:

Email:

**If to [Supplier Details]:**

For the attention of:

Address:

Email:

**If to any Acceding Member:** The address specified in the relevant Accession Agreement.

## Documents relating to legal proceedings: Where any claim forms, application notices, judgments, orders or other notices of legal process relating to a Party are delivered to or served on another Party, the recipient Party shall immediately notify the other Party of such documents and immediately forward the same to it for its urgent attention.

## Timing of notices:

#### Notices sent by post shall be effective on the earlier of:

##### actual receipt; and

##### five (5) Business Days from mailing; and

#### Notices delivered by hand shall be effective on delivery.

## Change of address: Any Party may change its nominated address, facsimile number or email address by prior written notice to the other Parties.

# Service of process

## Any claim forms, application notices, judgments, orders or other notices of legal process relating to this Agreement may be served by posting it by pre-paid first class recorded delivery post, or delivered by hand to the address for the appropriate Party as follows (or to another address for service in England given in accordance with Clause 23 (Communications) to Customer):

#### Supplier **[Note to Bidders: contact details to be inserted where they differ from Cl. 23 details]**

# No agency or partnership

## No partnership: Nothing in this Agreement shall be construed as creating a partnership or relationship of employment between any Party.

## No agency: Save as otherwise expressly provided in this Agreement, no Party shall be or be deemed to be an agent of any other Party and shall not hold itself out as having authority or power to bind any other Party in any way.

# Third party rights

## Third parties: For the purposes of the Contracts (Rights of Third Parties) Act 1999, this Agreement is not intended to, and does not, give any person who is not a Party (including any Affiliate) any rights to enforce any provisions contained in it except that each right expressed to be favour of Customer under this Agreement may be enforced by any other member of the Customer Group (as if, and to the same extent as, such right is expressed to be in favour of Customer).

## Rights in Approved Sub-Contracts: Each Member shall ensure that each Approved Sub-Contract shall entitle the Customer to enforce that Approved Sub-Contract in place of the Member (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise).

# Severability

## If any provision of this Agreement shall be declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability or legality of the remaining provisions of this Agreement.

# Counterparts

This Agreement may be executed in any one or more counterparts. Any single counterpart of a set of counterparts executed, in either case, by both Parties, shall constitute a full original of this Agreement for all purposes.

# Costs and expenses

Each Party shall bear its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

# Further assurance and good faith

Each Party shall execute all further documents and, do all such acts and things necessary or desirable to give full effect to this Agreement and, in particular, to vest to the relevant other Party the applicable rights in respect of the applicable IPR in accordance with Clause 10 (Intellectual property).

# Governing law and jurisdiction

## Governing law: This Agreement and all non-contractual obligations arising out of or in connection with it shall be subject to the laws of England.

## Jurisdiction: Subject to Clauses 15 (Dispute Resolution), 17 (Meditation), the Parties irrevocably agree for the benefit of the Customer, that the courts of England shall have exclusive jurisdiction to hear and settle any dispute arising out of or in connection with this Agreement, save that Customer (but not any other Party) may take proceedings against [Supplier ] in any other court of competent jurisdiction. Each Party irrevocably agrees, in relation to any court whose jurisdiction is provided for in this Clause 31.2:

#### to waive any objection to that court's jurisdiction, whether on the grounds of venue or that the forum is not appropriate; and

#### that a judgment of that court is to be conclusive and binding on the Parties and enforceable in the courts of any other jurisdiction.

**Signed** by the parties or their authorised representatives:

1. – Definitions and interpretation

# Definitions

## In this Agreement (including the recitals and Schedules), unless the context otherwise requires, the following expressions have the following meanings:

|  |  |
| --- | --- |
| **"Acceding Member"** | means any Member that has become a Member after the date of this Agreement by executing an Accession Agreement together with the Customer; |
| **"Agreement"** | means this document and its Schedules and Appendices, as amended from time to time, and any other documents generated in accordance with this document or incorporated by reference; |
| **"Applicable Law"** | means: any and all laws, statutes, orders, rules, regulations, directives and codes of conduct and mandatory guidelines in each case which have legal effect, whether local, national, international or otherwise existing from time to time; andany other similar instrument which is legally binding; affecting a Party or its business or applicable to a Party and including the coming into effect, repeal, amendment or variation of any of the above after the date of this Agreement. So that there is no doubt, Applicable Law shall include any and all Indian laws, statutes, orders, rules, regulations, directives and codes of conduct and mandatory guidelines in each case which are applicable to the Services and/or this Agreement; |
| **"Approved Sub-Contractor"** | means each sub-contractor approved by the Customer in accordance with the terms of the relevant ’ember's Services Agreement; |
| **"Business Day"** | means a day other than a Saturday, Sunday or a bank holiday in the relevant territory in which the Services are being provided; |
| **"Charges"** | means the charges for the performance of the Services as set out in, and as calculated in accordance with, the relevant Services Agreement; |
| **"Member(s)"** | has the meaning given in Clause 2.3 (Members); |
| **"Confidential Information"** | means, in respect of each Party, all information relating to that Party or its operations or business which is supplied by or on behalf of that Party or generated by the receiving Party from such information, either in writing, orally or in any other form, directly or indirectly from or pursuant to discussions with the other Party or which is obtained through observations made by the receiving Party, including all analyses, compilations, studies and other documents whether prepared by or on behalf of a Party which contain or otherwise reflect or are derived from such information; |
| **"Customer Group"** | means the Customer and each of its subsidiaries (as defined in Section 1159 of the Companies Act 200“); |
| **"Dependency"** | means any dependency between Members, as identified as part of the Service“ and "**Dependencies**" shall be construed accordingly; |
| **"Dispute"** | means any claim, dispute or difference; |
| **"Good Industry Practice"** | means using standards, practices, methods and procedures conforming to Applicable Law, offering the level of assistance, and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a leading practice engaged in a similar type of undertaking under the same or similar circumstances in the United Kingdom; |
| **"Intellectual Property Right" "IPR"** | means any right, title or interest in: patents, trade marks, trade names, goodwill, registered designs, design rights, semiconductor topography rights, database rights, copyrights and other forms of intellectual or industrial property (in each case in any part of the world), whether or not registered or registrable for their full period of registration with all extensions, renewals and revivals, and including all applications for registration licences, permissions and consents or otherwise;inventions, formulae, confidential information, trade secrets (including know-how or secret processes);rights in computer software; andany similar or equivalent rights and assets which may now or in the future subsist anywhere in the world; |
| **“Member Behaviours”** | means the behaviours identified as such in Schedule 4  (Operating Level Agreement); |
| **"Non-Qualifying Dispute"** | means any Dispute, other than a Qualifying Dispute; |
| **"Operating Level Agreement"** | means the measures set out in Schedule 4 (Operating Level Agreement); |
| **“Programme”** | has the meaning given in Recital ; |
| **"Programme Objectives"** | means the objectives of the Programme, as set out in Clause 4 (Purpose) and in the Operating Level Agreement; |
| **"Purpose"** | means the purpose of migrating the Customer's data centre used by the Customer prior to the date of this Agreement to a new modular, flexible architecture and that is stable, robust and achieves a high level of performance in accordance with Good Industry Practice; |
| **"Qualifying Dispute"** | has the meaning given in Clause 16.1 (Qualifying Dispute); |
| **"Services"** | has the meaning given in Recital C; and |
| ”**"Term"** | means the term of this Agreement, as described in Clause 2.1 (Term). |

# Interpretation

## In this Agreement the following interpretations apply:

### Headings: Headings are for ease of reference only and to be ignored when interpreting this Agreement.

### Clause, paragraph, Schedule or recital: References to any Clause, paragraph, Schedule or recital are to those contained in this Agreement. All the Schedules are an integral part of this Agreement.

### This Clause: The expression this Clause, unless followed by the number of a specific part of the Clause, refers to the whole clause in which it occurs.

### Successors in title and transferees: Reference to any person, including a party, includes that person's successors in title and transferees (unless the transfer to the successor in title or transferee was in breach of this Agreement).

### Gender: Reference to any gender includes the others.

### Ejusdem Generis: The Ejusdem Generis rule does not apply to the interpretation of this Agreement. The words include, including and in particular indicate examples only. They do not limit the general nature of any preceding words. A phrase finishing with the words or other or otherwise is not limited by any preceding words where a wider interpretation is possible.

### Related words: Where this Agreement defines a word or expression related words and expressions have a consistent meaning.

### Dates and times: A day means the 24 hours from midnight to midnight. Reference to a date is to the corresponding day. References to time are to the time in London.

### Legislation: References to legislation include statutes, by-laws, regulations, rules, subordinate or delegated legislation and orders. Any reference to legislation is to that legislation at the date of this Agreement but:

* + - 1. where the reference relates to an obligation arising or to be performed after the date of this Agreement, it refers to any replacement, restatement or variation of that legislation at that time; and
      2. where the reference relates to a representation about circumstances on or before the date of this Agreement, it includes any prior legislation or law of which the legislation specified is a replacement, restatement or variation.

### English concepts and terms: Reference to any English concept or term is treated, when considered in relation to any jurisdiction other than England and Wales, as referring to the concept or terms most nearly approximating it in the other jurisdiction. This sub-clause does not affect any express term relating to choice of law or jurisdiction.

### Companies Act definitions: The words and expressions defined in sections 250, 251, 390, 1159, 1161 and 1162 of the Companies Act 2006 have the same meanings in this Agreement, except that a company is to be treated as a member of another company for the purposes of subsections 1159(1)(b) and (c) even if its shares in that other company are registered in the name of:

* + - 1. its nominee or any other person acting on its behalf, or
      2. another person by way of security over those shares.

### Company: The word company includes any body corporate, wherever established.

### Person: The word person includes each of the following, even if they have no separate legal personality: an individual, firm, partnership, trust, joint venture, body corporate, unincorporated body, association, organisation or any government, state or local body or authority.

### Writing: The term in writing means any communication made on paper, by fax or by email.

1. – Accession Agreement

Dated

**BETWEEN**

1. (**Custom**
   1. (2) [***NAME***] a company registered in *[]* under company number *[]* whose registered office is at *[]* (**Acceding Member**).

It is agreed:

# Background

* 1. On *[insert date of Collaboration Agreement]*, the Customer entered into a multiparty Collaboration Agreement with a number of information technology suppliers (the **Collaboration Agreement**, as such may be amended from time to time).
  2. The Customer and the Acceding Member have agreed that the Acceding Member shall become a party to the Collaboration Agreement as a Member in accordance with Clause 3 of the Collaboration Agreement.

1. **Accession**
   1. The Customer agrees that, in entering into this Accession Agreement, the Acceding Member shall become a Member.
   2. The Acceding Member agrees that, in entering into this Accession Agreement, it shall have all of the rights and obligations of a Member under the Collaboration Agreement and undertakes and agrees with each other Member that it will from the date of this Accession Agreement be bound by, and comply with, the terms of the Accession Agreement.
2. **Governing law**

This Accession Agreement shall be governed by and construed in accordance with English law and, without prejudice to Clause 31 (Governing law and jurisdiction)of the Collaboration Agreement, each party agrees to submit to the exclusive jurisdiction of the courts of England.

**Signed** by the parties or their authorised representatives:

**SIGNED** for and on behalf of Customer **SIGNED** for and on behalf of Acceding Member

Signature........................................... Signature.............................................

Name:................................................ Name...................................................

Date................................................... Date.....................................................

1. – Governance

# Structure

## Governance bodies will be formed at each of the levels below, with named Member participants meeting at the agreed intervals to review progress and resolve blockers.

## There is a joint responsibility on all Members to ensure appropriate attendance at governance sessions. However, the Customer will have the responsibility to arrange the required sessions. It is expected that this structure will evolve over time based on client need subject to agreement of all Members.

Fortnightly

Weekly

## Sponsoring Group:

* Senior leadership from each Member
* Fortnightly review of progress against charter, business outcomes & measures
* Resolve escalated consortium issues

## Consortium Leadership Team, Architecture and Technical SMEs:

* Leads from each consortium
* Meet weekly & track measures/progress
* Consolidate & review forward dependencies and any steps that need to be taken
* Resolve issues

## Meeting Terms of Reference

### Sponsoring Group/SLT

* **Objective 1**: Ensure alignment of portfolio of work for coming period aligns with business priorities
  + *Inputs*: View of portfolio of work for coming period; view of business priorities; assessment of progress towards Consortium Objectives
  + *Outputs*: Agreement to proceed with current portfolio; and/or actions to stop/start/change work of delivery teams
* **Objective 2**: Set objectives for Consortium, in line with agreed portfolio of work, using balanced scorecard framework, and agree parties responsible for measures
  + *Inputs*: Agreed portfolio of work for coming period
  + *Outputs*: Agreed objectives; agreed measures and responsible parties
* **Objective 3**: Resolve or agree actions to address any escalated Consortium risks and issues
  + *Inputs*: Details of escalated risks and issues
  + *Outputs*: Agreed actions to address
* **Objective 4**: Monitor overall Consortium performance, and agree any actions required to respond (incl. incentives and penalties)
  + *Inputs*: Assessment of Consortium performance against previously-agreed objectives
  + *Outputs*: Agreed actions to respond

## Cadence

|  |  |  |  |
| --- | --- | --- | --- |
|  | Weekly | Fortnightly | Attendees |
| Sponsoring Group | Informal weekly check-in with Programme Leads via Key Resource | Formal check in with Consortium Engagement/Account Managers and Programme Leads |  |
| Consortium Leadership Team | Formal meeting/call with key reps from all members on progress against plan, risks and issues | Formal meeting on progress against plan, constraints, issues, Front Door process and resourcing  Status update on key measures |  |

## Dispute Resolution

### The intention of all Members is to collaborate effectively, with a focus on delivering the best outcomes for Netlink Star at all times. However, it is necessary to outline the approach to dispute resolution to be referred to if required.

### To mitigate the risk of any interparty dispute, formalised regular meetings will take place with leads from each supplier to review risks and issues. Members will address any issues that may have potential to cause dispute, in a timely and professional manner.

### Members agree on the following approach for dispute resolution, before work starts, and will continue to review this on a regular basis, to ensure the process is working.

### Where disputes arise:

* The parties involved take responsibility for resolving any dispute between themselves, by applying reasonable use of the Front-Door Process policies. This should not be escalated to Netlink Star Consortium leads.
* If the situation appears to be unresolvable between the relevant parties, named supplier leads will be responsible for escalating the dispute to Netlink Star Consortium Leads, in a formalised meeting, where all relevant parties are represented.
* If there is a situation where Netlink Star Members are one of the parties in dispute, Consortium leads (from the relevant supplier) can escalate to a named senior member from Netlink Star, who would take responsibility for managing dispute resolution, to ensure delivery is not impacted.

1. - Operating Level Agreement

# General

The Services shall be undertaken at all times by the Members (together the **Consortium**) in accordance with the terms of this Operating Level Agreement.

# Member Behaviours

## The Members will aim to operate in a manner that reduces waste and optimises the delivery of value in meeting the identified Programme Objectives. To be successful the Members needs to develop strong, open and trusted relationships, by committing to and consistently demonstrating the behaviours set out in this Operating Level Agreement.

## **Authenticity**

### In all interactions Members will act with integrity, empathy and consistency, in the best interests of the Consortium as a whole.

### Members appreciate the impact of their actions on other team members who depend on them, and will do what they say they are going to do.

### Members will be open about their motivations and objectives, speak frankly and directly, and provide open and honest feedback to colleagues, respectfully.

### Members will listen actively to each other, looking first to genuinely understand, then checking and confirming understanding.

### Members will raise issues early and constructively when they can be resolved quickly and cost-effectively, and in a manner that acknowledges that all team members are working to the best of their abilities.

## **Alignment**

### Members will apply their creativity, innovation, and expertise in pursuit of the same goals and objectives, and understand that success is shared by all, collectively. Members’ past experience, ideas, thoughts and expertise is valued and welcomed.

### Members will seek to share knowledge effectively, reduce waste and duplication of effort, and leverage lessons learned across all teams.

### Members will have the courage to fail fast in trialling new ways of doing things, appreciating that lessons learned will be for the benefit of all.

### Members will be open and committed to continuous learning and improvement, always looking for ways to improve ways of working and increase productivity.

## Autonomy: Members are trusted to do the right thing, with responsibility for decision-making devolved to those closest to the issue, escalating appropriately where required.

## **Transparency**

### Members will behave in an open and transparent manner, sharing issues, concerns, and innovative thinking.

### Members will communicate more than just the minimum required, using good judgement to share the full breadth of useful information that may be required.

### Members should take appropriate risks with open communication, building trust by finding out more about each other’s objectives, constraints, context and experiences.

### Members will look to continuously improve the means and impact of their communication process, tooling and patterns, particularly considering the needs of remote team members.

## Collaboration and commitment to Partner Enablement

### Members will adopt a partnering approach, collaborating openly, transparently, and in a trusting manner to establish a healthy and productive work environment for all.

### Members will take a remote-first approach, ensuring that all team members have access to the knowledge, and relationships to participate effectively.

### Members will share knowledge in ways of working in a constructive, supportive way with a commitment to enable and upskill the Customer such that they adopt appropriate ways of working sustainably.

# Technical Design

## Architectural Guidelines

Each Consortium Member will adhere to the following guidelines in technical design which shall be considered a Member Behaviour:

### **Business led:** All software and technology must be aligned to the NRT DC reference architecture and objectives Consortium Members need to understand the opportunity before we design solutions.

### **Evergreen:**Consortium Members will consider the full lifecycle of our solutions, and plan for regular maintenance during run.

### **Secure & Compliant:** Information's integrity, availability, confidentiality, and authenticity is protected. Security traceability includes proper inception and application of the auditing system and monitoring tools. Consortium Members will remain compliant to relevant regulations and laws.

### **Unsurprising:** Platforms will be used for what they are designed to be used for, naming should reflect functionality, architecture should follow industry standards.

## Technical Design Authority

### The Members will act as a Technical Design Authority (TDA) to work alongside the Customer's Architects as and when required, to give assurance that technical design decisions are made effectively, and help ensure those decisions are managed consistently across the programme. The key people involved in the TDA could be part-time resources, SMEs or Member tech resources embedded throughout the wider teams.

The key benefits of the TDA are:

* Act as a sounding board to help validate architectural decisions
* Bring external insight and lessons learned
* Help ensure architectural decisions are communicated effectively across business stakeholders and teams
* Help align architectural decisions with principles and engineering best practices, to be able to drive key business outcomes
* Build consistency

## Performance and Commercial Management

### **Overview:** The Consortium Performance & Commercial Management approach is designed to be:

* Effective in delivering performance in line with the Consortium Objectives
* Effective in supporting the expected Consortium Culture & Behaviours
* Straightforward and simple to operate

## Approach to Performance Management

### The over-arching principles shaping this approach to performance management are:

* **Aligning objectives between parties** - so it is in everyone’s interests for suppliers to perform well, and to be rewarded for performing well
* **Enabling and supporting the desired culture for teams to work within** - to avoid distorting behaviours to achieve unnecessary targets
* **Simplicity and ease of application** - so that we use available data and reports from existing systems and processes, and don’t create more work

## Measures

### Consortium-level measures will reflect the business objectives of the Consortium overall. As these priorities will evolve over the lifetime of the consortium, these measures will be determined on a quarterly basis, from a set of potential measures, as part of a balanced scorecard. As the measures are agreed, the Consortium Members, with a Customer representative, will make sure that they can be captured, tracked and reported against.

### Individual measures will be agreed between Delivery Leads and team members, and will be agreed and reviewed on a regular basis, TBD by individual teams.

## Consortium-level Objectives

### Any objectives set by the Customer will support the over-arching business objectives. These, along with other potential additional measures will be determined and then assessed quarterly, at the Senior Leadership Team meetings, using a balanced scorecard **[Note to Bidders: balanced scorecard to be inserted before signature]**

## Consortium-level and accountabilities

* 1. 3.8 Individual Member accountabilities

**[Note to Bidders: areas of responsibility and accountability to be populated before signature based on RACI charts**

**SCHEDULE 1**

**DEFINITIONS**

**IN STANDALONE DOCUMENT**

SCHEDULE 2.1

**SERVICE DESCRIPTIONS**

# Introduction

## This Schedule sets out the scope of the Services that the Supplier shall provide. The Supplier shall supply the Services in accordance with the Service Levels defined in Schedule 2.2 (Service Levels).

## The Supplier shall deliver the Services in accordance with the high level solution set out in Schedule 4.1 (Supplier Solution) and further defined by the Supplier in its detailed solution as provided as a Deliverable in accordance with the Initial Transition Project set out in Schedule 6.4 (Initial Transition Project) from and to the premises listed in Schedule 2.5 (Locations).

## The Supplier shall deliver the Services utilising the ITIL Framework at version 3 or above;

## The Supplier shall supply services over the Term, comprising:

### the Initial Transition Project to transition the Data Centre LAN service from the incumbent supplier and to take on operational responsibility from the incumbent suppliers as further detailed in Schedule 6.4 (Initial Transition Project) into the Operate Service;

### the Migration project to migrate all existing Applications hosted in the Current Data Centres as further detailed in Schedule 6.5 (Migration Project) into the Operate Service;

### the Operate Service including business as usual transitions, to incorporate new Service Components types into the Operate Service;

### preparation for Exit as required and in accordance with Schedule 8.5 Exit Management, by ensuring the Operate Service is easily transferable to a new supplier at the end of the Term; and

### Exit Assistance as defined in Schedule 8.5 (Exit Management).

# Operate Service

Redacted Diagram

Diagram 1: Explanation of the key definitions in this schedule SET OUT FOR EXPLANATORY PURPOSES ONLY

## The Operate Service includes the provision, maintenance, monitoring and operation by Supplier of all the Assets, Infrastructure or Platform Components, Service Components, Assets and Service Bundles shown in Diagram 1 including the following Service Components fully listed in Schedule 7.4 (Product and Service Catalogue):

### Back up and Storage capability;

### Virtual and Physical Servers;

### Devices and appliances;

### Platforms (including Database instances, Active Directory servers, Citrix Virtual Desktop servers, Web Servers, Infoblox, VMware VCF);

### Data Centre Network (including LAN at Data Centre Locations according to Schedule 2.5); and

### Remote hands and eyes.

## As part of the Operate Service the Supplier shall:

### monitor and manage the Service Components (including engaging and leading the management of third party suppliers that interact with the Services) to ensure performance and availability, with required changes being fed back to Netlink Star in accordance with the Change process for notification or approval

### configure all Service Components to report back to Netlink Star’s monitoring and alerting systems where required by Netlink Star to provide end to end visibility and events correlation to support business applications management subject to Netlink Star providing the appropriate tool capable of such functionality in accordance with Schedule 3 for Supplier to be able to achieve this;

### complete the pre-defined batch and bulk processes specified in Run Books (and update the Run Books accordingly); and

### perform risk management (as agreed by the Parties) for any risks that may impact any of the Operate Services (including identifying, assessing, mitigating and controlling risks, maintaining a risk log, reporting in accordance with Schedule 8.1 (Governance), carrying out upfront risk reviews with Netlink Star, agreeing responsibilities and accountability (in accordance with the terms of this Agreement for actions to mitigate risks).)

## Netlink Star shall support the Operate Service as set out in Schedule 3 (Netlink Star Responsibilities).

## The Supplier shall supply additional services where requested by Netlink Star during the Term, including:

### Project Services as defined in Schedule 6.2 (Project Services); and

### Product & Service Catalogue, to add, modify or remove Service Components to the Operate Service, including physical intervention requests within each applicable Data Centre beyond what is required to deliver the Operate Service, as defined in Schedule 7.4 (Product and Service Catalogue).

## Charges for the Optional Services are based on the rates set out in Schedule 7.8(Suppliers Financial Model)**.**

## The Supplier shall use the Migration Project to refine the design of Service Components that were specified as part of the Initial Transition Project (including updating the Product and Service Catalogue).

## Supplier shall, at Netlink Star’s request, tag Service Components running in the Operate Service as connected to each other in the CMDB and then reported on and monitored for health and availability as a single entity.

# Transition Service

## The design, delivery and entry into operational service of any or any combination of any Service Components will be managed on an ongoing basis via change, release and deployment management to be set out by the Supplier during the Initial Transition Project so that Netlink Star retains oversight of the entire lifecycle.

## At the end of this Agreement whether due to termination or expiration the Supplier shall provide exit assistance services as defined in Schedule 8.5 (Exit Management) to enable full transfer of some or all of the services to one or more new suppliers (or to Netlink Star) without any loss of data or impact to service availability or quality. Charges for exit assistance shall be in accordance with the rates set out in the commercial model in Schedule 7.4 (Product and Service Catalogue).

# Service Levels

## The Service Levels are defined in Schedule 2.2 (Service Levels).

# Provision of Operate Service

## The Supplier shall take full control of systems management as described in Paragraphs 5.1.1 to 5.1.15 for the Service Components within the Data Centre to ensure the Operate Service is provided in accordance with this Agreement. This includes:

### monitoring for, and resolution of any events and problems that may impact the Services, to ensure optimal performance and resource consumption combined with maximum service availability within the defined Service Levels;

### the configuration and validation of Assets underpinning the Service Components and ensure that such components meet the approved design requirements as part of the Service Component deployment activity;

### monitoring, managing and maintaining the data communications within the Data Centre Locations to the Service Levels (this could include the link(s) between the Data Centres but excludes Netlink Star’s WAN and any other data communications not wholly routed within the Data Centre LAN);

### patching and updating of all Service Components and Assets agreed as in scope of a patch management process during the Transition phase, in accordance with Schedule 8.2 (Change Control Procedure);

### application of anti-virus updates for all Service Components agreed as in scope of an anti-virus management process during the Transition phase, in compliance with the Standards and in accordance with Schedule 2.6 (Security Management);

### active directory management as agreed in writing with Netlink Star for all Service Components in accordance with Schedule 2.6 (Security Management);

### backup in accordance with Paragraph 5.4 of this Schedule;

### disaster recovery, including failures in any Service Component or from complete systems failure, in accordance with Schedule 8.6 (Business Continuity and IT Service Continuity) and Paragraph 6 of this Schedule;

### capacity management by informing Netlink Star of increases or decreases that the Supplier considers necessary to ensure ongoing Operate Service. Netlink Star shall purchase additional hardware as reasonably requested by the Supplier in accordance with Paragraph 10.4 of this Schedule;

### Incident management, including liaison with Netlink Star stakeholders and/or third parties as appropriate to meet target restoration objectives in accordance with Paragraph 10.7 of this Schedule;

### use predictive analytics and alerts to undertake pre-emptive maintenance, proactively investigate recurring incidents to identify mitigations and to minimise the impact of incidents that cannot be prevented;

### undertake proactive maintenance activities within a Scheduled Maintenance Window defined in Schedule 2.2 (Service Levels);

### provide reasonable cooperation (at no additional cost to Supplier) regarding warranty contracts for Netlink Star Assets (hardware and software) which are necessary for the Services, subject always to Supplier not being responsible for any failure on the part of such third party to meet its warranty support obligations;

### provide technical support via a support desk 24 hours a day, seven (7) days a week, which interfaces with Netlink Star and/ or third party service desks; and

### provide support for all tooling and applications involved in the provision of the Operate Services, including those listed in Schedule 5 Paragraph 4;

## The Supplier shall complete scheduled or batch operations reasonably required by Netlink Star where Netlink Star provides written instructions or Run Books. These operations include:

### running and monitoring backups of component configurations and data;

### master data archiving; and

### morning checks after overnight runs including overnight reporting processing.

## The Supplier shall backup in accordance with the Backup Policy which shall be made available to the Supplier during the Initial Transition Project in accordance with Schedule 6.4 (Initial Transition Project), including:

### backup of the Service Components and configurations of the Operate Service on a daily basis between 6pm-1am;

### logging and reporting on all backup and restoration failures and time required to complete;

### any failed backup to be restarted and successfully completed;

### performing Cyclic Redundancy Checks Errors to indicate where data has been corrupted by verifying it against the data extracted, ensuring its accuracy with monthly reports;

### providing recommendations for backup schedules efficiency improvements to ensure backup window limitations are met;

### creation and maintenance of back up Run Books with input from Netlink Star’s application owners and SMEs;

### backup all data on the storage infrastructure and retention of the same for one (1) year;

### full backups weekly and monthly, and with incremental backups daily;

### backups shall be replicated to the Manchester Data Centre in accordance with Schedule 2.5 (Customer Locations) onto the backup platform managed and maintained by the Supplier;

### the backup platform includes recovery application (Avamar), backup storage system (Data Domain), backup vault system (Cyber Recovery Vault), backup proxy system, backup agents and integration.

### testing the restore process at least once per month; and

### retaining media for backups, using the media and off-site storage service provided by Netlink Star or a nominated third-party, as follows and subject to change in the backup policy. At a minimum:

#### each daily incremental backup shall be retained for one (1) week;

#### each weekly full backup shall be retained for one (1) month;

#### each monthly full backup shall be retained off-site for six (6) months;

#### each annual full backup shall be retained off-site for one (1) year; and

#### the foregoing will be confirmed in the Backup Policy to be provided by the Supplier.

## The Supplier shall provide Asset management services to manage assets across their entire lifecycle including:

### ensuring Assets are compliant with the terms of applicable licensing agreements;

### deployment and use of the software assets is managed proactively to optimise for cost and benefits to Netlink Star;

### lifecycle events are mitigated with agreed appropriate proactive actions (e.g. patch, upgrade, renew, replace, retire);

### that service designs reviewed and agreed during transition, are maintained over their entire lifecycle and shall include:

#### a software asset lifecycle budget (including purchase, maintenance, support);

#### a software asset lifecycle plan, specifying major lifecycle events (patching schedules, end of manufacturer, end of support, refresh, replace, retire etc.); and

#### tooling (or manual workarounds) to provide software inventory data;

### updating and routinely (at a minimum quarterly) re-publishing the software asset lifecycle plan for each asset/class;

### routinely reviewing the lifecycle position and agreeing actions to mitigate and optimise;

### maintaining and verifying the accuracy of the deployed software inventory;

### maintaining and verifying the accuracy of the software asset register (licenses held/owned);

### providing reports/dashboards on the overall license compliance position;

### providing resources to Netlink Star to assist them in responding to internal and external audit requests;

### maintaining a register of the release version numbers recommended by it for all Infrastructure or Platform Service Components which is accessible by Netlink Star on a real time basis (“**Release Register**”);

### reviewing the Release Register on a quarterly basis with Netlink Star to agree and define a forecast plan for Infrastructure or Platform Service Component Upgrades to be managed by the Supplier together with reporting on the progress of upgrades for the previous quarter in accordance with Schedule 2.6 (Security Management); and

### maintaining the Netlink Star CMDB in accordance with Paragraph 10.4 in this Schedule.

## The Supplier shall provide a Remote Hands and Eyes Service where Netlink Star require on-site engineering activities, including:

### rebooting or visually inspecting any equipment or cabling and reporting on its state to Netlink Star;

### deploying, replacing, configuring and relocating data centre hardware components as requested by Netlink Star;

### replacing or fixing failed or failing components in accordance with Customer policies and standards detailed in the Policies (and subject to the applicable third party support contracts being maintained by Netlink Star) for the following where requested:

#### Hardware (e.g. including CPU, Storage, appliances);

#### DC LAN;

#### Netlink Star WAN and Security; and

#### Application Hosting,

at all the Data Centre Locations.

5.5.4 in addition to being an intrinsic part of the Operate Service the Remote Hands and Eyes Service is accessible to undertake Service Requests in accordance with Schedule 7.4 (Service Catalogue).

# OPERATE RESILIENCE

## The Supplier shall, once each year, test the resilience of the Service Components according to the Test Procedures in Schedule 6.3 as well as the business continuity and disaster recovery capabilities in accordance with Schedule 8.6 (Business Continuity and IT Service Continuity). of the Operate Service and report on the results of such testing and confirm whether the capabilities are robust and were available on testing.

## The Supplier shall assess the impact of any Significant Change on the Service Components on the Business Continuity Plan for the Services, and recommend as required any failover and disaster recovery testing of the Operate Service.

## The Supplier shall ensure that the configuration of the Operate Service is able to adjust appropriately between logical and physical Infrastructure or Platform Components to optimise resilience and service Availability of the Service Components.

## The Supplier shall optimise capacity utilisation across the Service Components both in terms of user interaction and transaction processing.

## The Supplier shall publish regular reporting on performance against metrics defined by Netlink Star for Service Components as well as Service performance asset out in Schedule 2.2 (Service Levels).

# SERVICE MANAGEMENT REQUIREMENTS

## The Service Management Requirements are described according to the ITIL V3 framework as currently used by Netlink Star.

# SERVICE STRATEGY

## All areas of service strategy are owned by Netlink Star, i.e.:

### strategy generation, including the Netlink Star’s Strategic Technology Framework;

### financial management;

### service portfolio management; and

### demand management.

## The Supplier may be consulted from time to time to provide input and recommendations to the service strategy.

## The Supplier shall highlight to Netlink Star innovative ideas for improved service through the governance procedures set out in Schedule 8.1 (Governance).

# SERVICE DESIGN

## Future service design shall be the Supplier’s responsibility in accordance with Netlink Star’s desired business outcomes and objectives and the ITIL framework and will include asset management as set out in Paragraph 5.5**.**

## **Service Catalogue Management**

### Netlink Star defines and manages the Service Catalogue in alignment with its broader service portfolio. Changes to the service definitions and Service Catalogue will be managed via the Change Control Procedure.

## **Capacity Management**

### At periodic intervals during the Term, the Supplier and Netlink Star shall jointly conduct demand planning as part of the capacity management function for the Service to ensure that the infrastructure is adequate to support the anticipated Volumes.

### The Supplier shall raise requests to Netlink Star for additional capacity where it is above the tolerances as agreed in capacity planning as set out in Paragraph 9.3.1. Such requests shall be raised via the Change Control Procedure.

### Netlink Star shall monitor and manage network bandwidth and performance to Supplier access points.

## **Availability Management**

### The Supplier shall provide Availability Management in compliance with the Service Levels in Schedule 2.2 (Service Levels).

### The Supplier shall have a feedback route through the Service Management Review Team meetings in accordance with Schedule 8.1 (Governance) for potential variations to the availability.

## **Security Management**

### The Supplier shall provide Information Security Management in accordance with Schedule 2.6 (Security Management).

## **Supplier Management**

### The Supplier management governance process shall be as described in Schedule 8.1 (Governance).

### Netlink Star and the Supplier shall have regular meetings to review service delivery quality as described in the Schedule 8.1 (Governance).

# SERVICE TRANSITION

## The Supplier shall successfully transition existing Data Centre Network LAN Services to the Operate Service as part of the Initial Transition Project according to Schedule 6.4 (Initial Transition Project) from Netlink Star’s current supplier.

## The Supplier shall provide ongoing transition planning and support services as part all Project implementations in accordance with Schedule 6.2 (Project Services*)*.

## **Change Management**.

### Either Netlink Star or the Supplier may identify changes required to the Services. All changes shall be brought under the Change Control Procedure in accordance with Schedule 8.2 (Change Control Procedure).

## **Netlink Star Configuration Management Database** **(CMDB).** The Supplier shall prepare, manage and keep up to date the Netlink Star CMDB for all Service Components (for the purposes of satisfying its audit and regulatory compliance needs) including:

### track and report the status of all Service Components, Infrastructure or Platform Components, Service Bundles, and Assets in accordance with Schedule 2.2 (Service Levels*);*

### ensure that the Netlink Star intellectual property licensing database is kept up to date (Netlink Star currently uses Flexera);

### ensure that deployment and use of the Service Components Infrastructure or Platform Components, Service Bundles, and Assets are managed proactively to optimise for cost and benefits to Netlink Star;

### ensure that all lifecycle events are mitigated with appropriate proactive actions (e.g. patch, upgrade, renew, replace, retire);

### allow the association between the Assets and applicable documentation held in a managed document repository;

### allow the association between Service Components and applications (“**Service Bundles**”) as shown in Diagram 1.

### allow Incidents to be correlated to the specific Service Components to allow for prioritisation; and

### support Netlink Star’s needs for audit and compliance reporting.

## **Release and Deployment Management**

### The Supplier shall be responsible for any non-functional acceptance testing for the deployment of changes for release into the Operate Service.

### For Supplier supported applications (Paragraph 5.1.15), the Supplier is also responsible for impact assessment as part of the release and deployment management.

### The Supplier will set out the process for Release Management during Initial Transition Project to be approved by Netlink Star.

## **Service Validation and Testing**

### Netlink Star shall provide test resources for acceptance where identified in the applicable agreed project plan.

### The Supplier shall conduct testing in accordance with Schedule 6.3 (Testing Procedures).

## **Event and Incident Management**

### Netlink Star uses a service desk based on the SCCD toolset for service ticket logging and management. The Supplier shall integrate with this toolset ensuring no loss in data fidelity.

### The Supplier shall receive and update service tickets following the agreed procedures and timescales on the Netlink Star Service Desk tool, which is the single record of all activity.

### The Supplier shall report any events that have the potential to turn into an Incident, and Incidents, to the Netlink Star Service Desk.

### Priority 1 Incidents and Priority 2 Incidents shall also be notified by phone call to the Netlink Star Service Desk and a Netlink Star email address to be provided during the Initial Transition Project.

### The Supplier shall provide a support desk as a single point of contact for Netlink Star through both online (voice and video) and voice channel.

**SCHEDULE 2.2**

SERVICE LEVELS

This Schedule 2.2 sets out the Services Levels that shall apply to various aspects of the Operate Service provided by the Supplier

1. **HOURS OF OPERATION**
   1. The Service Hours for the Operate Service shall be 24 x 7 inclusive for each day in the calendar year.
2. **MAINTENANCE**
   1. The Supplier shall maintain a rolling maintenance schedule covering at least the forthcoming six (6) month period in a format to be agreed with Netlink Star (the “**Maintenance Schedule**”).
   2. Any maintenance for the Operate Service must be conducted between the hours of 00:00 to 05:00 hours (UK time) Sunday (“**Scheduled Maintenance Window**”) with a maximum Service Outage of one (1) hour pre-approved in writing by Netlink Star where it is agreed in advance in writing by Netlink Star except for any emergency maintenance downtime required outside these hours.
   3. Once agreed by Netlink Star, the period of planned maintenance (“**Scheduled Downtime**”) shall be entered onto the Maintenance Schedule.
   4. Where the Supplier believes it requires an exceptional maintenance window beyond the maximum amount allowed for as Scheduled Maintenance in Paragraph 2.2, it shall present its case to Netlink Star at least eight (8) weeks in advance of such a requirement. The Parties shall discuss the reasons and alternatives.
   5. Service downtime arising from Scheduled Downtime shall be excluded in the calculation of the total Service Hours for the purposes of the calculation of performance against the Service Levels. Any downtime period beyond the agreed window shall be included as unavailability in the calculation of performance against the Service Levels.
3. **SUMMARY OF SERVICE LEVELS**
   1. The Services shall be provided according to the Service Levels documented in this Schedule 2.2(Service Levels). Notwithstanding any other Paragraph of this Schedule 2.2 or Schedule 7.2 (Service Credits), a Service shall not be regarded as falling below or failing a Service Level (including an Aspiration Level, Minimum Level or Service Credit Boundary Level), and the Supplier shall not be liable for any failure to provide the Services according to the Service Levels (including the Aspiration Levels, Minimum Levels and Service Credit Boundary Levels), to the extent that such failure results from the acts or omissions of a third party that is not a Sub-contractor.
   2. There shall be two (2) types of Service Levels associated with the delivery of Service:
      1. Binary Service Levels, equivalent to a pass or fail measure (e.g. delivery of a Catalogue Request within the agreed period); and
      2. Continuous Service Levels assessed on a continuous numeric scale over a calendar month period from 0 to 100% (e.g. availability of a service).
   3. The Service Levels are specified in Table 1 against the specific Service to which they apply. Table 1:
      1. summarises key details of the Service Levels for reference which should be read in conjunction with Schedule 7.2 (Service Credits) which sets out the mechanism by which performance against the Service Levels are converted into Service Credits;
      2. specifies the type of Service Level in relation to Paragraph 3.2;
      3. identifies the metric/measure (“**KPI**”) that the Service Level is based on and therefore shall be tracked, baselined, and reported on in accordance with reporting in Paragraphs 5 and 7;
      4. sets out the aspirational Service Level (“**Aspiration Level**”) which the Supplier will aspire to achieve through its Service improvement obligations. For the avoidance of doubt, the Parties have not confirmed that the Supplier Solution is capable of achieving the Aspiration Level and the service shall not be deemed to be failing if it does not meet the Aspiration Level;
      5. sets out the minimum Service Level (“**Minimum Level**”) below which Service Credits become payable; and
      6. sets out the Service Credit Boundary that is the performance level at which the maximum allocated Service Credits for that Service Level measure become payable to Netlink Star.
   4. The following will constitute a Material KPI Failure:
      1. if in a single Invoicing Period, a Service Level that is identified as Key Critical results in a Service Failure;
      2. if there is a consecutive failure of any Service Level (i.e. below Minimum Level) three (3) times or more in a row; or
   5. if in a single Invoicing Period the Supplier causes two (2) or more individual Service Levels to fall below their Minimum Level, and each such Service Level is below the Minimum Level four (4) or more months in any rolling six (6) month period. These Service Levels apply to the Operate Services and are summarised in Table 1. Annex A: Service level calculations provides additional detail:

| **Ref** | **Name** | **Type** | **Metric/ Measure** | **Aspiration**  **Level** | **Minimum**  **Level** | **Service Credit Boundary Level** |
| --- | --- | --- | --- | --- | --- | --- |
| A-1a | Service Component Availability | Continuous | Average availability across all service components per month | 99.98% | 99.98% | 95% |
| This measures the average availability across the following Service Components: Virtual machines, virtual storage volumes, database instances, Active Directory instances, virtual web servers, virtual VDI servers and VLANs. A component is considered unavailable for the period it cannot be accessed due to a failure unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors).  Example: if there are 1000 Service Components, 100 virtual storage volumes, 20 virtual networks, 800 virtual servers all with 100% availability, 60 virtual servers with 99.9995%, 19 virtual servers with 99.995%, and 1 virtual server with 93.4% (48.2 Hours of outage) this would give an average availability of 99.9932% and would **pass** the Aspiration Level. | | | | | |
| A-1b | Service Component availability adherence | Continuous | Percentage of Service Components that meet availability target per month | 99% | 98% | 90% |
| This is to determine what percentage of the following individual Service Components met their availability target: Virtual servers, virtual storage volumes, database instances, Active Directory instances, virtual web servers, virtual VDI servers and VLANs have specific availability targets Table N. A component is considered unavailable for the period it cannot be accessed due to a failure unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors). Service Credits start to be incurred if 2% of Service Components miss their respective availability target. If 10% of Service Components fail to reach their respective availability targets, then 100% of the Service Credit allocated is payable.  Example: Using the same example as A-1a, the percentage of Service Components that met their availability target is **99.9%** (1 virtual server didn’t meet its 99.99% availability target) therefore this would **pass** the Aspiration Level. | | | | | |
| A-2 | Service Component non- Availability (how many failures) | Continuous | Percentage of all Service Components that have experienced less than 100% of availability per month | 5% | 10% | 25% |
| This measure is used to determine how many Service Component failures occurred regardless of the failure outage duration. This measure applies only to virtual machines, virtual storage volumes, database instances, Active Directory instances, virtual web servers, virtual VDI servers and VLANs. A Service Component is considered unavailable for the period it cannot be accessed due to a failure unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors).  Example: Using the same example as A-1a, 80 Service Components out of 1000 (**8%**) had some degree of outage, this would pass to meet the Minimum Level. | | | | | |
| A-3 | Maximum Service Outage duration | Binary**/Key Critical** | Number of Service Components that exceed 48 Hours per month of unplanned unavailability | 0 | 2 | N/A |
| This is to track the number of Service Components which are unavailable for more than 48 hours of unplanned outage in a month for the following: Virtual machines, virtual storage volumes, database instances, Active Directory instances, virtual web servers, virtual VDI servers and VLANs. A component is considered unavailable for the period it cannot be accessed due to a failure unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors. This is a binary measure, so fail would result is the full Service Credit being payable.  Example: Using the same example as A-1a, as 1 Service Component experienced 48.18 Hours of outage, this would meet the Minimum Level. | | | | | |
|  | | | | | |
| BC-1 | Business continuity | Binary | Restoration of all Service Components within their defined RTO targets within a Disaster Recovery or declared Disaster | Assessed via Disaster Recovery agreed in accordance with Schedule 8.6 (*Business Continuity and IT Service Continuity*) and according to Table 5. | N/A | N/A |
| BC-2 | Backup Success | Continuous | Percentage of Service Component backups that are successful each month for applicable Service Components. If a failed backup of a Service Component is rerun and successfully accomplished within 24 hours, it will be considered a success. | 100% | 98% | 90% |
| This covers backups in accordance the Backup Policy. This allows for 2% of Service Components to have backup failures reported against them to trigger a **fail** to meet the Minimum Level. Note that 1 Service Component could have many failures reported but this counts as 1 failure. | | | | | |
| BC-3 | Backup Restoration Success | Continuous | Percentage of Service Component backups that are successfully restored each month for all Service Components | 99.5% | 99% | 92% |
| This tracks all backup restoration requests in a month and allows for 1% of Service Components to have restoration failures reported in order to **pass** the Minimum Level.  Example: if 100 restores are requested and 1 Service Component had reported 50 restoration failures, but the other 99 had none, this means that 1/100 (1%) failed. This would pass the Minimum Level. | | | | | |
| R-1 | Response Time for Priority 1 Incidents | Continuous | P1 Incidents responded to within target time per month Table 3 | 98% | 95% | 80% |
| R-2 | Response Time for Priority 2 Incidents | Continuous | P2 Incidents responded to within target time per month Table 3 | 95% | 90% | 75% |
| R-3 | Response Time for Priority 3 Incidents | Continuous | P3 Incidents responded to within target time per month Table 3 | 95% | 90% | 75% |
| R-4 | Response Time for Priority 4 Incidents | Continuous | P4 Incidents responded to within target time per month Table 3 | 95% | 90% | 75% |
| R-5 | Resolution Time for Priority 1 Incidents | Continuous | P1 Incidents resolved within target time per month Table 4 | 98% | 95% | 70% |
| R-6 | Resolution Time for Priority 2 Incidents | Continuous | P2 Incidents resolved within target time per month Table 4 | 95% | 90% | 70% |
| R-7 | Resolution Time for Priority 3 Incidents | Continuous | P3 Incidents responded to within target time per month Table 4 | 95% | 90% | 75% |
| R-8 | Resolution Time for Priority 4 Incidents | Continuous | P4 Incidents responded to within target time per month Table 4 | 95% | 90% | 75% |
| R-9 | Service catalogue fulfilment 1 (On time delivery) | Continuous | Service Catalogue Requests fulfilled within target time per month Section 3.15 | 98% | 95% | 75% |
| R-10 | Acknowledgement time | Continuous | Incidents acknow-ledged within target time per month Section 3.8 | 100% | 98% | 80% |
| Q-1 | Customer input to resolve Priority 1 and Priority 2 incidents | Continuous | The Supplier shall be self-sufficient, and each month shall resolve P1 and P2 incidents without requesting Netlink Star subject matter assistance from a technical perspective [Excluding confirmation requests] | No more than 1 major incident per quarter needing technical guidance | No more than 2 major incidents per quarter needing technical guidance | 10 per Quarter |
| Q-2 | Supplier Staff Churn | Continuous | Percentage of Supplier team (non-shared resources) who remain allocated to NRT account on rolling three month basis | 85% Onshore. 75% Offshore. | 80% Onshore, 70% Offshore | 0% |
| Q3 | Contract Schedule 2.1 Non-compliance | Continuous | Number of key non-compliance instances of Schedule 2.1 by the Supplier in a month evidenced by Netlink Star | 0 | 2 | 10 |

Table 1 Summary of Service Levels first year of Service

|  |  |
| --- | --- |
| Service Component type | Availability target |
| Data Storage (SAN) | 99.999% |
| Virtual Server | 99.99% |
| DC LAN | 99.99% |
| Database | 99.9% |
| Web Server | 99.9% |
| Active Directory | 99.99% |
| Virtual Desktop Interface | 99.99% |

Table N Summary of Service Component Availability target

* 1. The Incident Priority Levels are defined according to Table 2:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Priority  Level 1 | Priority  Level 2 | Priority  Level 3 | Priority  Level 4 |
| **Widespread / Majority** | Service Delay -or-  Impact /Potential Impact to Safety -or-  Potential to impact NR reputation -or-  there is a high commercial business impact with regulation or legislative breaches OR | Loss or degraded service to important business systems. | Degraded resilience to non-critical service - or Degraded service of non-critical system | N/A |
| Loss of service causing high risk of Service Delay - Or- Loss or degraded service to important business systems used to move asset or manage / monitor the operational asset set infrastructure |
| **Significant / Multiple** | Service Delay -or-  Impact /Potential Impact to Safety -or-  Potential to impact NR reputation -or-  there is a high commercial business impact with regulation or legislative breaches | Loss of service causing high risk of Service Delay - Or- Loss or degraded service to important business systems used to move assets or manage / monitor the operational asset set infrastructure | Loss or degraded service to important business systems. | Degraded resilience to non-critical service - or Degraded service of non-critical system |
| **Isolated / Low** | N/A | Service Delay -or-  Impact /Potential Impact to Safety -or-  Potential to impact NR reputation -or-  there is a high commercial business impact with regulation or legislative breaches - | Loss of service causing high risk of Service Delay - Or- Loss or degraded service to important business systems used to move assets or manage / monitor the operational asset set infrastructure | Loss or degraded service to important business systems. |
| Degraded resilience to non-critical service - or Degraded service of non-critical system |

Table 2 Incident Priority Levels

* 1. “**Resolution Time**” is the amount of time taken between the initial creation of the incident ticket on the Supplier’s system to the resolution of the Incident and the change in status to ‘resolved’ by the Supplier resolution team after confirmation by Netlink Star in accordance with ticket classification as described in paragraph 3.12.
  2. “**Response Time**” is the amount of time taken between the initial creation of the incident ticket on the Supplier’s system to the recorded acknowledgement in accordance with the ticket classification of the initial resolution / support group of the assignment of the incident ticket. For tickets that are classified as Priority 1 or Priority 2, there must be positive acknowledgement / confirmation within the ticket. This means that the ticket is assigned to a specific resolution team and an individual within that team puts a recorded acknowledgement into the Incident record as part of accepting the assignment to work on the incident record.
  3. “**Acknowledgement Time**” is the amount of time taken between the initial contact by Netlink Star and the initial creation of the incident ticket on the Supplier’s system. The Supplier agrees that the Acknowledgement Time is one (1) minute for all Priority Levels.
  4. For all other incidents, the assignment of the ticket to the resolution group is sufficient provided that it is recorded in the incident record.
  5. Netlink Star confirmation is the acceptance that the service has been restored. For tickets that are classified as Priority 1 or Priority 2, there must be positive confirmation from Netlink Star, not to be unreasonably withheld or delayed. For all other classifications, the acknowledgement can be passive confirmation, for example an email sent to Netlink Star and proof such as attachment of email with email addresses included in the ticket. The ticket cannot be closed without positive confirmation from Netlink Star.
  6. Table 3 lists the Response Times for Incidents. The Supplier shall ensure that Netlink Star is notified (e.g. for Priority 1 & 2 a ticket shall be raised and a telephone call to Netlink Star is required, for Priority 3 & 4, by direct email to Netlink Star’s management, telephone, dashboard or other tool as agreed) of each Incident in accordance with the applicable Response Time and that resource has been assigned to provide a resolution in accordance with the applicable Incident Resolution Times specified in Table 4.

| **Priority** | **Response Time** |
| --- | --- |
| **1** | 5 min |
| **2** | 15 min |
| **3** | 2 hrs |
| **4** | 12 hrs |
| **5** | 12 hrs |

Table 3 Service Incident Response Times

* 1. Table 4 lists the Resolution Times for Incidents relating to the Operate Service.

| **Priority** | **Resolution Time** |
| --- | --- |
| **1** | < 60 mins |
| **2** | < 2 hrs |
| **3** | < 8 hrs |
| **4** | < 72 hrs |
| **5** | < 120 hrs |

Table 4 Service Incident Resolution Times

* 1. The Response Time and Resolution Time are applicable on a 24hrx365 day basis for all Operate Services. In the event of a data centre failing and Netlink Star invoking a Disaster Recovery exercise the Supplier shall fully restore all Infrastructure and Platform Components, Service Components in accordance with Schedule 8.6 (Business Continuity and IT Service Continuity) from the failed data centre to the recovery data centre according to the Infrastructure and Platform Recovery Tier Service Levels defined in Table 5.
  2. The Recovery Tier Service Levels for each Service Components will be finalised with Netlink Star as part of the Migration Project, or any future projects to migrate or install applications, through the Technical Design Authority according to Schedule 8.1 (Governance).

|  |  |  |
| --- | --- | --- |
| Recovery  Tier-Level | Return To Operations | Recovery Point Objectives |
| Tier 0 | <15 min | Incident Occurrence |
| Tier 1 | 1 Hr | 30 min |
| Tier 2 | 4 Hrs | 4 Hrs |
| Tier 3 | 12 Hrs | 24 Hrs |
| Tier 4 | 1.5 Days | 3 Days |
| Tier 5 | 2 Days | 28 days |

Table 5 Service Components Recovery Point and Times

* 1. The following terms used in Schedule 7.4 (Product and Service Catalogue) shall have the following meanings in relation to Service Level R-9:
     1. “**Service Request Fulfilment Time**” shall be equivalent to a Priority 5 Service Incident Resolution Time: < 120 hours; and
     2. “**Critical Request Fulfilment Time**” shall be equivalent to Priority 3 Service Incident Resolution Time: < 8 hours.
  2. Notwithstanding the other provisions of this Paragraph 3, the period of time from which a ticket is referred to a third party that is not a Sub-contractor shall be disregarded for the purposes of the calculation of Response Times, Resolution Times and Acknowledgement Times.

1. **CONTINUOUS IMPROVEMENT OF SERVICE LEVELS** 
   1. Following successful completion of the Initial Transition Project, the Supplier commits to the following annual reduction in incidents compared to the initial baseline (and subject to the scale of the service being delivered at the time):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Y1 | Y2 | Y3 | Y4 | Y5 |
| NA | X% | Y% | Z% | ZZ% |

4.1 A The Supplier will maintain an ongoing Continuous Improvement plan which will identify and track any actions (on either party) agreed with Netlink Star in Governance Meetings Schedule 8.1 including to help the Supplier achieve the Aspirational Levels of service.

1. **SERVICE MEASUREMENT AND REPORTING**
   1. The Supplier shall report on all aspects of the Operate Service in the following ways:
      1. Service Management Reports to be discussed with Netlink Star in accordance with Schedule 8.1 (Governance) as described in Paragraph 5.3; and
      2. Real time reporting of core components availability and performance via an online dashboard as described in Paragraph 5.4;
   2. The cadence of reporting shall be in accordance with Schedule 8.1 (Governance), however, at the discretion of Netlink Star, these reports may be requested to be delivered at a more frequent basis. There will be immediate escalation of serious incidents that affect performance and availability.
   3. Reporting with the necessary content to support the governance meetings outlined in Schedule 8.1 (Governance) for the Operate Service including:
      1. the Service performance against all Service Levels;
      2. metrics/measures listed in Table 1 showing current, history, and trends;
      3. any continuous improvement initiatives;
      4. significant risks including number and category;
      5. Event Management volumes;
      6. Service Request Fulfilment, including volumes by category, volumes that triggered an Incident, Change, or Service Level failure on a weekly basis with a summary monthly;
      7. Availability, including a detailed breakdown of Availability by Service Component type and Service Bundle.
      8. Incident Management, including a detailed breakdown of Incidents by Priority, by Service Component, open and closed Incidents in breach of Service Levels, Incident Acknowledgement Time showing average time by Priority;
      9. Problem Management, including workarounds identified if any, number of Problems raised and resolved, number of P1 and P2 incidents with no Problem tickets;
      10. Change Management, including Change Log, number of Changes raised and Changes approved by category, Change Volumes, Change completion timings in breach according to the process in Schedule 8.2 (Change Control Procedure), number of failed and/or rollback Changes by category;
      11. Asset Management, including a list of patches, volumes of patches in relation to Change;
      12. Configuration Management, including CMDB changes without a related change record;
      13. Capacity Management, including Capacity Plan, Schedule;
      14. a detailed breakdown of Catalogue Requests;
      15. summary of other service tickets; and
      16. Changes and the projects in the pipeline.
   4. Real Time Performance Dashboard
      1. The Supplier will deliver dashboard reports which include dynamic filters and or drill-down capabilities, leading to automated report generation.
      2. The Supplier will provide a Real Time Performance Dashboard to the Customer that describes the levels of performance being delivered from the data centres at the actual point in time with a comparison to historical performance levels identifying any trends.
      3. The Real Time Performance Dashboard shall be derived from performance data that already exists.
      4. The Real Time Performance Dashboard shall allow the user to interactively drill down into the data to explore:
         1. Services delivered to a business unit (e.g. RS-IT);
         2. Service Components availability;
         3. Service Bundle availability – availability of Infrastructure and Platform Components used to support a specific application or user;and Individual Infrastructure or Platform Components
      5. Services delivered to the business and to support key business processes shall be based on business relevant KPIs identified during the design of the Real Time Performance Dashboard as part of the Initial Transition Project in Schedule 6.4 (Initial Transition Project), but shall include at a minimum all the metrics/measures listed in Table 1.
      6. Services reporting will be displayed in appropriate technical measures displayed (e.g. Total Storage currently consumed measured in Gb, then broken down into storage tiers).
2. **SERVICE LEVEL MANAGEMENT**
   1. In the event of Service Level breaches of any Service Levels, the Supplier shall take the following actions to ensure adequate focus, root cause analysis and corrective action:
      1. Any Service Level breaches where the performance falls below the Minimum Level as set out in this Schedule, shall be tracked, diagnosed, including the outcome of any root cause analysis, and reported back with corrective and preventative actions taken within the next Invoicing Period;
      2. Supplier shall maintain and supply to Netlink Star in the service review meeting, a risk management plan and update the same with the learning from the diagnosis of these breaches;
      3. in case of breaches where there has been significant adverse impact on Netlink Star, the Supplier in conjunction with Netlink Star teams, shall convene a review and the Supplier management team will be present in these reviews and outline corrective action taken; and
      4. in case of persistent breaches of Service Levels or repeated Service Outages, the Supplier shall invoke its internal high risk project management processes, which includes executive management reviews, weekly tracking and close collaboration with Netlink Star to agree corrective actions and tracking of the actions to closure.
   2. At a minimum, the Service Level Management System shall include:
      1. notifications to Netlink Star of Service Failures and other issues in the Supplier's performance and/or delivery of the Services, including details of timing, frequency and trending;
      2. Supplier self-monitoring in accordance with agreed ITIL industry best practice (currently v3);
      3. performance review, including details of timing and frequency;
      4. the processes and systems the Supplier will put in place to effectively monitor performance of the Services against the Service Levels;
      5. the format, frequency and content of the Service Level Reports to the Netlink Star; and
      6. how the Supplier will comply with the obligations set out in this Schedule.
   3. Netlink Star shall be entitled to reasonably request, , routine changes to the Service Level Management System and the Service Level Reports, and such changes shall be conducted in accordance with the Change Control Procedure noting that any request which involves additional Service Levels or changes to existing Service Levels requires thirty (30) days’ advance written notice.
3. **PERFORMANCE REPORTING**
   1. The Supplier shall submit Service Level reports to Netlink Star electronically at the same time as invoices are submitted.
   2. The Service Level report shall cover the entire period of the preceding Invoicing Period.
   3. The Service Level report shall be in the format as described in the Service Level Management System, and at a minimum shall include:
      1. the monitoring which has been performed with a summary of any issues identified by such monitoring;
      2. for each Service Level, the actual performance achieved during the Invoicing Period, the performance achieved over the previous three (3) Invoicing Periods and the year to date view;
      3. a summary of all Defaults that occurred during the Invoicing Period;
      4. for any failures, actions taken to resolve the underlying cause and prevent recurrence;
      5. the proposed Service Credits to be applied in respect of that Invoicing Period and reporting on remedial actions associated with breach of either the Minimum Level or Service Credit Boundary Level according to Schedule 7.2 (Service Credits);
      6. a rolling total of the amount of Service Credits that have been incurred by the Supplier over the past six (6) Invoicing Periods excluding the current Invoicing Period; and
      7. relevant particulars of any aspects of the performance by the Supplier which fail to meet the requirements of Netlink Star to include but not be limited to service improvement activities.
   4. The Service Level reports shall be reviewed and agreed by Netlink Star and Supplier at the Service Management Review meeting as detailed in Schedule 8.1(Governance*)*.
   5. Netlink Star acting reasonably shall be entitled to raise any further questions or request any further details from the Supplier at any time including at the Service Management Review Team meeting.
   6. The Supplier shall provide to Netlink Star such supporting documentation as Netlink Star may reasonably require to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified period.
4. **PERFORMANCE RECORDING**
   1. The Supplier shall prepare, manage and keep up to date a record of the performance and usage of all Infrastructure or Platform Components used to provide the Services. e.g. all hardware and software assets, platforms, virtual machines, licences).
   2. Netlink Star shall be able to, but shall not be limited to, (for the purposes of satisfying its audit and regulatory needs), to request:
      1. for licensing purposes, system generated information on System usage, e.g. including how many CPU cores a database application has been deployed in a particular month); and
      2. to verify any of the above information on a point by point basis at the time of generation of the report.
5. **DEFINITIONS**
   1. The Supplier shall apply Netlink Star’s definitions of Incident Priority Levels as set out in Table 2 and shall also agree the Priority Level definitions for Catalogue Requests as part of the definition of the Product and Service Catalogue in accordance with Schedule 7.4 (Service and Product Catalogue).

**Annex A: Service level calculations**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Service Component Availability** | | | | A-1a **Continuous** |
| **Definition:** | | | | |
| The measure of the availability of the Service Component supported by the Supplier during any given calendar month:  A-1a - Average availability across all service components per month | | | | |
| Calculation: | | | | |
|  | | | | |
|  | Service Components | | Virtual machines, virtual storage volumes, database instances, Active Directory instances, virtual web servers, virtual VDI servers and VLANs | |
|  | Total minutes in month | | The total number of minutes in the calendar month (MONMIN) | |
|  | Service Time | | The total time (minutes) the Service Component should be available within the calendar month (SERTIM).  SERTIM is dependent on the service component type (as defined in Schedule 7.4) and is specified as follows:  SERTIM = MONMIN \* 99.999 for Data Storage (SAN) Service Components  SERTIM = MONMIN \* 99.99 for Virtual Server Components  SERTIM = MONMIM \* 99.99 for DC LAN Service Components  SERTIM = MONMIN \* 99.9 for Database Service Components  SERTIM = MONMIN \* 99.9 for Web Server Service Components  SERTIM = MONMIN \* 99.99 for Active Directory Service Components  SERTIM = MONMIN \* 99.99 for Virtual Desktop Interface Service Components | |
|  | Number of service components by service component type | | The number of Service Components created and running within the Opertate Service of a specific service component type (as defined in Schedule 7.4)  SERCOMNUMTYP | |
|  | Scheduled Downtime | | The total time (minutes) that is pre-authorised in advance by Netlink Star for maintenance of the Service Component during the calendar month (SCHDTIM) | |
|  | Unscheduled Downtime | | The total time (minutes) the Service Component was unavailable (could not be accessed) in the calendar month due to a failure unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors) and, excluding Scheduled Downtime (UCHDTIM) | |
|  | Service Component availability | | SAV = Sumtotal ((SERTIM – SCHDTIM – UCHDTIM) / (SERTIM – SCHDTIM)/SERCOMNUMTYP) for each service type | |
|  | | | | |
| Measurement: | | | | |
|  | | | | |
|  | Period | | Monthly | |
|  | Method | | The KPI will be measured through the use of:  (Proactive) System Monitoring and management tools/logs  Service Desk logs (Incidents). | |
|  | | | | |
| Service Credit Levels: | | | | |
|  | | | | |
|  | Steady State | | | |
|  | Actual Service Usage | | Calculation | Notes |
|  | Lower | Upper |
|  | xxx | 1 | SAV | Service target |
|  | 0.yyy | <0.xxx | SAV | Service Pass |
|  | 0 | <0.yyy | SAV | Service Failure |
|  | | | | |
|  | | | | |
| Notes: | | | | |
| xxx – Target as defined in table 1  yyy- Acceptable as defined in table 1 | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Service Component Availability** | | | | **A-1b**  **Continuous** |
| **Definition:** | | | | |
| The measure of the availability of the Service Component supported by the Supplier during any given calendar month:  A-1b - Percentage of Service Components that meet availability target per month | | | | |
| Calculation: | | | | |
|  | | | | |
|  | Number of Service Components | | Total number of virtual service components (Data Storage (SAN), DC LAN, Database Service, Web Server, Active Directory, Virtual Desktop Interface) as defined in Schedule 7.4 (TOTALSERCOM) | |
|  | Total minutes in month | | The total number of minutes in the calendar month (MONMIN) | |
|  | Service Time | | The total time (minutes) the Service Component should be available within the calendar month (SERTIM).  SERTIM is dependent on the service component type (as defined in Schedule 7.4) and is specified as follows:  SERTIM = MONMIN \* 99.999 for Data Storage (SAN) Service Components  SERTIM = MONMIN \* 99.99 for Virtual Server Components  SERTIM = MONMIM \* 99.99 for DC LAN Service Components  SERTIM = MONMIN \* 99.9 for Database Service Components  SERTIM = MONMIN \* 99.9 for Web Server Service Components  SERTIM = MONMIN \* 99.99 for Active Directory Service Components  SERTIM = MONMIN \* 99.99 for Virtual Desktop Interface Service Components | |
|  | Number of service components with outage | | Number of service components that have experienced an outage in the calendar month NUMSERCOMOU | |
|  | Scheduled Downtime | | The total time (minutes) that is pre-authorised in advance by Netlink Star for maintenance of the Service Component during the calendar month (SCHDTIM) | |
|  | Unscheduled Downtime | | The total time (minutes) the Service Component was unavailable (could not be accessed) in the calendar month due to a failure, unless the Supplier can demonstrate that the failure is due to a third party (excluding Sub-Contractors) and excluding Scheduled Downtime (UCHDTIM) | |
|  | Number of service components not meeting availability target | | SAV = (SERTIM – SCHDTIM – UCHDTIM) / (SERTIM – SCHDTIM) for each service component  NUMSERCOMOU = Total number of components with SAV< 1 | |
|  | | | | |
| Measurement: | | | | |
|  | | | | |
|  | Period | | Monthly | |
|  | Method | | The KPI will be measured through the use of:  (Proactive) System Monitoring and management tools/logs  Service Desk logs (Incidents). | |
|  | | | | |
| Service Credit Levels: | | | | |
|  | | | | |
|  | Steady State | | | |
|  | Actual Service Usage | | Calculation | Notes |
|  | Lower | Upper |
|  | xxx | 1 | PERCENTSERCOM = NUMSERCOMOU/TOTALSERCOM | Service target |
|  | 0.yyy | <0.xxx | PERCENTSERCOM = NUMSERCOMOU/TOTALSERCOM | Service Pass |
|  | 0 | <0.yyy | PERCENTSERCOM = NUMSERCOMOU/TOTALSERCOM | Service Failure |
|  | | | | |
|  | | | | |
| Notes: | | | | |
| xxx – Target as defined in table 1  yyy- Acceptable as defined in table 1 | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Accumulated Infrastructure and Platform Component availability** | | | | A-2 Continuous |
| **Definition:** | | | | |
| The Percentage of all Service Components that have experienced less than 100% of availability per month supported by the Supplier during any given calendar month | | | | |
| Calculation: | | | | |
|  | | | | |
|  | Number of Service Components | | The total number of Service Components being supported by the supplier in the month (SCTOT) | |
|  |  | |  | |
|  | Number of incidents of Service Component unavailability | | Number of incidents which involved a Service Component being unavailable for any time duration, excepting planned outages (SCUNAV) | |
|  | Cumulative incident availability | | CUMIA = SCUNAV/SCTOT | |
|  | | | | |
| Measurement: | | | | |
|  | | | | |
|  | Period | | Monthly | |
|  | Method | | The KPI will be measured through the use of:  (Proactive) System Monitoring and management tools/logs  Service Desk logs (Incidents). | |
|  | | | | |
| Service Credit Levels: | | | | |
|  | | | | |
|  | Steady State | | | |
|  | Actual Service Usage | | Calculation | Notes |
|  | Lower | Upper |
|  | xxx | 1 | CUMIA | Service target |
|  | 0.yyy | <0.xxx | CUMIA | Service Pass |
|  | 0 | <0.yyy | CUMIA | Service Failure |
|  | | | | |
|  | | | | |
| Notes: | | | | |
| xxx – Target as defined in table 1  yyy- Acceptable as defined in table 1 | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Maximum Service Outage duration** | | | | A-3 Binary |
| **Definition:** | | | | |
| The measure that describes the number of Service Components that exceed 48 Hours per month of unplanned unavailability. | | | | |
| Calculation: | | | | |
| \_ | | | | |
|  | Number of Service Component outages greater than 48 hours | | The number of Service Component outages greater than 48 hours in a calendar month (NSC48MON) | |
|  |  | |  | |
|  |  | |  | |
|  | | | | |
| Measurement: | | | | |
|  | | | | |
|  | Period | | Monthly | |
|  | Method | | The Service Dashboard is used to determine the number of Service Components with outages greater than 48 hours within the monthly period (NSC48MON) | |
|  | | | | |
| Service Credit Levels: | | | | |
|  | | | | |
|  |  | | | |
|  | Actual Service Usage | | Calculation | Notes |
|  | Lower | Upper |
|  |  |  | NSC48MON < 3 | Service achieved |
|  |  |  | NSC48MON > 2 | Service Failed |
|  | | | | |
|  | | | | |
| Notes: | | | | |
|  | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Business Continuity** | | | | BC-1 Binary | |
| **Definition:** | | | | | |
| The measure that describes the ability of the supplier to restore all applicable Service Components within the agreed targets. | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Target time to recover all applicable services | | RTO | |  |
|  | Maximum duration of time for which data can be lost | | RPO | |  |
|  | Time taken to recover all applicable services | | Definition via Defined Term (RTOACHV) | |  |
|  | Duration of time for which data has been lost | | Definition via Defined Term (RPOACHV) | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | This KPI is expected to be assessed through a series of dress rehearsal exercises. The dress rehearsal exercise can potentially be instigated without prior warning. The rehearsal will clearly be flagged as a rehearsal when it is instigated.  If a real Disaster Recovery event is declared this KPI will apply. | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  |  | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  |  |  | RPOACHV <= RPO and RTOACHV <= RTO | Service target |  |
|  |  |  | RTOACHV > RTO or RPOACHV > RPO \* 1.1 | Service fail |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
|  | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Backup success** | | | | BC-2 Continuous | |
| **Definition:** | | | | | |
| A measure of the effectiveness of the ability to recover data associated with the Service Components during any given month | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Service components backed up | | Number of backups of data associated with all service components made during the calendar month (SCB) | |  |
|  | Total number of service components successfully backed up | | The total number of backups successfully made for all service components during the calendar month (SCBSUC) as evidenced by backup logs. | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | The KPI will be made through an analysis of the log files created by the Solution | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  | Steady State | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | 0.xxx | 1 | SCBSUC/SCB | Service target |  |
|  | 0.yyy | <0.xxx | SCBSUC/SCB | Service Pass |  |
|  | 0 | <0.yyy | SCBSUC/SCB | Service Failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – target as defined in table 1  yyy- acceptable as defined in table 1 | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Backup Restoration success** | | | | BC-3 Continuous | |
| **Definition:** | | | | | |
| A measure of the effectiveness of the ability to recover data associated with the Service Components during any given month | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Service components Restoration requests | | Number of requests to restore service component backups made during the calendar month (RSCB) | |  |
|  | Total number of service components successfully restored | | The total number of backups successfully restored for service components during the calendar month (RSCBSUC) as evidenced by backup logs. | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | The KPI will be made through an analysis of the log files created by the Solution | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  | Steady State | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | 0.xxx | 1 | RSCBSUC/RSCB | Service target |  |
|  | 0.yyy | <0.xxx | RSCBSUC/RSCB | Service Pass |  |
|  | 0 | <0.yyy | RSCBSUC/RSCB | Service Failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – target as defined in table 1  yyy- acceptable as defined in table 1 | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Response Time for Incidents** | | | | R–1, R-2, R–3, R-4 **CONTINUOUS** | |
| **Definition:** | | | | | |
| The measure of Supplier responsiveness to incidents occurring during any given month.  Incident Response Time (IRT) as defined in 3.9. | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Total incidents | | The total number of incidents (TINC) recorded for a specific severity and priority | |  |
|  | Target total incidents | | The total number of incidents (TTI) that were recorded as having an incident response time being less than or equal to the applicable target (ATGT) in Table X for a specific severity and priority | |  |
|  | Maximum incident response time | | The greater of the maximum response time for an incident responded to in the reporting period, or opened in the prior period and still unresponded to in the current period (MAXIR) | |  |
|  | Percentage responded to target | | PRTGT = TTI/TINC | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | The KPI will be measured through the use of:  (Service Desk logs (Incidents). | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  | Steady State – review | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  |  |  |  |  |  |
|  | xxx | 1 | PRTGT | Service target |  |
|  | yyy | <xxx | PRTGT | Service Pass |  |
|  | 0 | <yyy | PRTGT or (MAXIR > 10 \* ATGT) | Service Failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – Target as defined in table 1  yyy- Acceptable as defined in table 1 | | | | | |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Resolution Time for Incidents** | | | | R-5, R-6, R-7, R-8 Continuous | | |
| **Definition:** | | | | | | |
| The measure of Supplier’s ability to resolve incidents occurring during any given month | | | | | | |
| Calculation: | | | | | | |
| \_ | | | | | | |
|  | Incident Resolution Time | | Incident Resolution Time (IROT) as defined in 3.9. | | |  |
|  | Total incidents | | The total number of incidents (TINC) recorded for a specific severity and priority | | |  |
|  | Target total incidents resolved | | The total number of incidents (TTIR) that were recorded as having an incident resolution time being less than or equal to the applicable target resolution (ARTGT) in Table X for a specific severity and priority | | |  |
|  | Maximum incident resolution time | | The greater of the maximum resolution time for an incident responded to in the reporting period, or opened in the prior period and still unresolved to in the current period (MAXIRO) | | |  |
|  | Percentage responded to target | | PRTGTR = TTIR/TINC | | |  |
|  |  | |  | | |  |
|  | | | | | | |
| Measurement: | | | | | | |
|  | | | | | | |
|  | Period | | Monthly | | |  |
|  | Method | | The KPI will be measured through the use of:  (Service Desk logs (Incidents). | | |  |
|  | | | | | | |
| Service Credit Levels: | | | | | | |
|  | | | | | | |
|  |  | | | | |  |
|  | Actual Service Usage | | Calculation | | Notes |  |
|  | Lower | Upper |  |
|  |  |  |  | |  |  |
|  | xxx | 1 | PRTGTR | | Service target |  |
|  | yyy | <xxx | PRTGTR | | Service Pass |  |
|  | 0 | <yyy | PRTGTR or (MAXIRO > 10 \* ARTGT) | | Service Failure |  |
|  | | | | | | |
|  | | | | | | |
| Notes: | | | | | | |
| Xxx – Target as defined in table 1  yyy- Acceptable as defined in table 1 | | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Service Catalogue responsiveness 1 (On time delivery)** | | | | R-9 Continuous | |
| **Definition:** | | | | | |
| The measure that describes the Suppliers adherence to delivering Service Catalogue requests to target. | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Number of service requests | | The total number of service requests delivered by the Supplier and accepted by Netlink Star within the calendar month. (SREQ) | |  |
|  | Number of Exempted service requests | | Number of service quests that have been exempted from the target calculation. An exemption can occur if it the service request is delivered on time but fails acceptance for owing to reasons beyond the Supplier’s control, or if Netlink Star does not meet their obligations to accept or fail a service request within Netlink Star’s agreed response time (EXREQ) | |  |
|  | Number of failed service requests | | Number of un-exempted service requests delivered by the Supplier that have either not been delivered according to the agreed time to delivery or failed to meet Netlink Star’s quality criteria stated in the request at the point such request is raised and received by the Supplier (FAILREQ) | |  |
|  |  | |  | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | Service Requests are tracked in the ITSM | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  |  | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | xxx | 1 | (SREQ-EXREQ-FAILREQ)/(SREQ-EXREQ) | Service Target |  |
|  | yyy | <xxx | (SREQ-EXREQ-FAILREQ)/(SREQ-EXREQ) | Service pass |  |
|  | 0.0 | <yyy | (SREQ-EXREQ-FAILREQ)/(SREQ-EXREQ) | Service Fail |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – Target as defined in table 1  yyy- Minimum as defined in table 1 | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Customer input to resolve Priority One (P1) and Priority Two (P2) incidents** | | | | Q-1 Continuous | |
| **Definition:** | | | | | |
| The Supplier shall be self-sufficient, and each month shall resolve P1 and P2 incidents without requesting Netlink Star subject matter assistance from a technical perspective [Excluding confirmation requests] | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Subject Matter Expert requests | | During the handling of Priority 1 and Priority 2 incidents the number of documented requests (REQNUM) for advice from Netlink Star Subject Matter Experts for Service Components that the Supplier is providing support that are logged in all of the P1 and P2 meeting minutes and service tickets (i.e. The Service Provider is not being asked to support something that they are not contracted for). | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | All severity one incidents that occur in the Period are reviewed once the incident has been resolved. As part of this review the minutes published after each call documenting all actions to be taken are examined and any actions that fall to a Netlink Star Subject Matter Expert are logged.  Netlink Star Subject Matter Experts are defined as any Customer staff members who are asked to assist with incident resolution involving Service Components that are the responsibility of the Supplier. Excluded from this are those Netlink Star members who are named as an escalation point, or as a service owner; these individuals would always need to be communicated with during the course of an incident and would expect to be allocated actions. | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  |  | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | xxx | 0 | REQNUM <= xxx | Service target |  |
|  | yyy | xxx | REQNUM >yyy and REQNUM <xxx | Service pass |  |
|  |  | yyy | REQNUM > yyy | Service Failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – Target as defined in table 1  yyy- Minimum as defined in table 1 | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Supplier Staff Churn** | | | | Q-2 Continuous | |
| **Definition:** | | | | | |
| The measure that describes the level of dedicated staff leaving the Supplier’s Operate Services delivery team within a rolling quarterly period | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Number of dedicated Supplier’s staff | | The number of staff (STAFFNO) dedicated to provide Operate Services and Service Requests to Netlink Star. This does not include staff assigned to undertake Projects for Netlink Star. | |  |
|  | Number of dedicated Supplier’s staff leaving the Supplier’s team | | Number of dedicated staff leaving the Supplier’s team (STAFFLV) who then require replacement in the rolling quarterly period. Those who are on scheduled holiday, maternity, paternity, sick or compassionate leave for a period of less than a calendar month are not considered as having left the team. Any dedicated staff leaving the team as a result of efficiency measures will not be considered. | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Reported monthly but measured on rolling quarterly basis | |  |
|  | Method | | The Supplier shall keep a record of all dedicated staff deployed to support Netlink Star together with their role on the team. | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  |  | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | xxx | 1 | 1 – (STAFFLV/STAFFNO) | Service target |  |
|  | yyy | <xxx | 1 – (STAFFLV/STAFFNO) | Service pass |  |
|  | 0.0 | <yyy | 1 – (STAFFLV/STAFFNO) | Service failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – Target as defined in table 1  yyy- Minimum as defined in table 1 | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Contract Schedule 2.1 Non-compliance** | | | | Q-3Continuous | |
| **Definition:** | | | | | |
| The measure that describes the level of compliance to reporting and service management obligations within the operate service as defined in Schedule 2.1 | | | | | |
| Calculation: | | | | | |
| \_ | | | | | |
|  | Observed non-compliances | | The number of observed non-compliances in relation to the delivery of the operate service (OBSONC). This specifically relates to reporting and service delivery obligations specified in Schedule 2.1 (e.g. Undertaking impact assessments as part release and deployment management) | |  |
|  |  | |  | |  |
|  |  | |  | |  |
|  | | | | | |
| Measurement: | | | | | |
|  | | | | | |
|  | Period | | Monthly | |  |
|  | Method | | Observed and minuted non-compliances within formal Service review meetings or detected and documented in incident root cause analysis exercises. | |  |
|  | | | | | |
| Service Credit Levels: | | | | | |
|  | | | | | |
|  |  | | | |  |
|  | Actual Service Usage | | Calculation | Notes |  |
|  | Lower | Upper |  |
|  | xxx | 0 | OBSONC | Service target |  |
|  | yyy | <xxx | OBSONC | Service pass |  |
|  | - | <yyy | OBSONC | Service failure |  |
|  | | | | | |
|  | | | | | |
| Notes: | | | | | |
| xxx – Target as defined in table 1  yyy- Minimum as defined in table 1 | | | | | |

**SCHEDULE 2.3**

**NOT USED**

**SCHEDULE 2.4**

**STANDARDS AND POLICIES**

1. **STANDARDS AND POLICIES**
   1. Netlink Star and Supplier shall comply with the Policies (as defined below).
   2. The Supplier shall monitor the Standards Portal for any updates to the Policies as listed under the latest publications tab in the Standards Portal. Such updated versions shall be applicable from their addition into the Standards Portal except where such updates constitute a Change and are subject to the Change Control Procedure.
2. **DEFINITIONS**
   1. “**Policies**” means:
      1. each of Netlink Star’s standards and policies (as updated from time to time in accordance with Paragraph 1.2) included in NR/CAT/STP/001 (defined below) and available via the Standards Portal (defined below); and
      2. each of the policies and standards set out in Paragraph 3.
   2. “**NR/CAT/STP/001**” means the catalogue of Netlink Star’s standards and policies (as updated from time to time in accordance with Paragraph 1.2) are available via the Standards Portal.
   3. “**Standards Portal**” means Netlink Star’s portal for Netlink Star policies at <https://global.ihs.com/csf_home.cfm?&csf=NR> or otherwise as notified by Netlink Star to the Supplier from time to time.
3. **INITIAL** **TRANSITION PROJECT**
   1. The following standards and policies shall be made available to the Supplier at the commencement of the Transition Project (via the Standards Portal):

|  |  |  |
| --- | --- | --- |
| Standard No. | Title | Issue/Date |
| * + 1. N2/L2/TEL/30182 | Specification for secure configuration and management of Netlink Star telecom internet protocol (IP) networks | Issue 1 – 04/03/2017 |
| * + 1. NR/L3/TEL/0023 | Management of SINCS Records for Telecom Assets |  |
| * + 1. NR/SP/TEL/30024 | Fault Priority and Response Times for Telecom Equipment |  |
| * + 1. NR/L2/SIG/10047 | Management of Safety Related Reports for Signalling & Telecoms Failures |  |
| * + 1. NR/L2/TEL/31001 | Operational Telecoms – Maintenance Testing & Failure Investigation Process |  |
| * + 1. NR/L3/CTM/306 | Skills Assessment Scheme |  |
| * + 1. NIST SP 800-53 (rev 4) | National Institute of Standards & Technology | Issue – April 2018 |
| * + 1. ISO/IEC 27001:2013 | Information Standards Organisation 27001:2013 | Issue 1- 10/2013 |
| * + 1. HMG Security Policy Framework | HMG Security Policy Framework | Issue 1.1 May 2018 |
| * + 1. NR/L2/TEL/30022 | Engineering Assurance Arrangements for Communication Engineering Schemes and Services. | Issue 7 - 04/06/2011 |
| * + 1. NR/L2/OHS/00112 | Work-Safe Procedures | Issue 2 - 05/12/2009 |
| * + 1. NR/L3/MTC/089 | Asset Management P–an | Issue 1 - 06/06/2009 |
| * + 1. NR/L2/INI/02009 | Engineering Management for Projects | Issue 5 – 04/06/2011 |
| * + 1. NR/L3/TEL/0092 | Disconnection and At-Risk Processes for Telecoms Bearer Circuits & Systems including GSM-R equipment | Issue 4 – 04/06/2011 |
| * + 1. NR/L1/TEL/30100 | Telecoms Design | Issue 3 – 06/03/2010 |
| * + 1. NR/L2/TEL/30160 | Optical Fibre Network Design | Issue 1 – 04/06/2011 |
| * + 1. HSAWA | The Health and Safety at Work Act 1974 | 1974 |
| * + 1. NR/L2/TEL/30025 | Standby Power Supply Requirements for Telecommunications Equipment | Issue 5- 02/12/2017 |
| * + 1. NR/L1/TEL/30092 | Telecommunication Testing and Commissioning Procedure | Issue 4 - 03/12/2016 |
| * + 1. NR/L2/RSE/100/05 | Product acceptance and change to Netlink Star operational infrastructure | Issue 3 - 02/12/2017 |
| * + 1. NR/L2/TEL/30161 S | Supply of Optical Fibre Patch cord and Pigtail Assemblies | Issue 1 - 04/06/2011 |
| * + 1. NRT/SY/2015/025 | Security and Resilience for Project Guidelines |  |
| * + 1. NR/L1/INF/02232 | NR/L1/INF/02232 |  |
| * + 1. NR/L2/EBM/STP001 | Netlink Star Standards Management | Issue 5 – 03/12/2011 |
| * + 1. NR/L1/TEL/30102 | Telecom Asset Management Policy – Telecommunications Engineering | Issue – 05/09/2009 |
| * + 1. NR/L1/TEL/30099 | Telecom Asset Management | Issue – 06/03/2010 |
| * + 1. NR/L3/MTC/SE0220/02 | Telecom Maintenance |  |
| * + 1. NR/L3/INF/02231 | Disposal of Records | 03/03/2011 |
| * + 1. NR/L2/INF/02223 | Information Security Classification | 05/06/2010 |
| * + 1. NR/L3/INF/02221 | Document creation and approval | 01/10/2009 |
| * + 1. NR/L2/INF/02220 | Document and records management |  |
| * + 1. NR/L3/INF/02222 | Metadata for documents and records |  |
| * + 1. NR/L3/INF/02224 | Sharing framework for information |  |
| * + 1. NR/L3/INF/02225 | Records Management |  |
| * + 1. NR/L3/INF/02226 | Corporate Records Retention Schedule |  |
| * + 1. NR/L2/INF/02230 | Corporate Archive Policy |  |
| * + 1. NR/L3/INI/P3M/131 | Document Management Manual |  |
| * + 1. NR/L3/INI/P3M/131/01 | Document Management Procedure |  |
| * + 1. NR/L2/INF/02237 | Electronic Signatures |  |
| * + 1. NR/L2/INI/02009 | Engineering Management for Projects |  |
| * + 1. NR/L2/INI/P3M/101 | Governance for Asset set Investment Projects (GRIP) - Projects |  |

**SCHEDULE 2.5**

**CUSTOMER LOCATIONS**

# Netlink Star Premises

## The Netlink Star Premises include the Service Management Locations, Data Centre Locations and Other DCs.

## The Data Centre Locations are:

### Current Data Centres

#### The Dimble Centre (“**Dimble Data Centre**”): Off Basil Hill Road (Adjacent to Dimble Depot), Dimble, Oxfordshire, OX11 7HJ

#### The Manchester Data Centre (**“Manchester Data Centre”**): Wolart Street, Ashfield, Greater Manchester, M8 2PO

### New Data Centres

#### The Cody Park Data Centre (“**Cody Park Data Centre**”) Farnborough Ark Data Centre – Old Ively Road, Farnborough, Hampshire GU14 0LX

#### The Spring Park Data Centre (“**Spring Park Data Centre**”) Corsham Ark Data Centre – Westwells Road, Corsham, Wiltshire SN13 9GB

### Data Centre Embassies

#### Data Centre Embassies are locations where RS-IT applications reside that are in scope of their application project to be migrated into the New Data Centres. As such, there is a DC LAN ACI POD deployment at each of these Data Centre Embassy sites and will be until RS-IT migration i– completed - this is currently scheduled for June 2022. These require extended LAN support by the Supplier as part of the Operate Service during this migration period.

#### The Data Centre Embassies are:

##### Royal Tunbridge Wells Data Centre (“**Royal Tunbridge Wells Data Centre**”), DXC Computer Sciences Ltd, Spectrum House, Chapman Way, Tunbridge Wells, TN2 3E, Kent, UK

##### Seven Oaks Data Centre (“**Seven Oaks Data Centre**”), Pearl Downs Business Park, Lyfield, Denby Green, Sevenoaks TU3 2QS, Kent, UK

#### At the Dimble Data Centre there will be a DC LAN ACI POD deployment at Dimble for migration purposes to the New Data Centres.

#### At the Manchester Data Centre there will be a remote ACI Site, 2 witness servers (2-Node Cluster), 1 Data Domain, 2 Cyber Recovery bare metal servers and 1 Cyber Sense bare metal server

## **Service Management Locations**

### The location for service management and other governance meetings shall be any of the Service Management Locations at Netlink Star’s discretion.

### The Service Management Locations are:

#### “**Milton Keynes Data Centre**”: Head quarters campus, Milton Keynes MK8 7hEN;

#### “**London – Elysian Data Centre**”: 1 Elysian Street, London EE7 2DN; and London – Enterprise: Enterprise House, 167-169 Westbourne Terrace, London. W2 6JX.

## The Other DCs are:

### **“Stoke Data Centre”:** Stoke TEC Core Node North, Vernon Road, Stoke-on-Trent, ST4 2TP; and

### “**Doncaster Data Centre**”**:** Unit 3 Carolina Court, Lakeside, Doncaster, South Yorkshire, DN4 5RA.

# Travel Costs

## Supplier’s costs for travel to and from the Data Centre Locations and Service Management Locations shall be included in either the Base Charges or the agreed Project Charges. No travel costs shall by payable by Netlink Star in addition to the Base Charges or Project Charges (as applicable).

**SCHEDULE 2.6**

**SECURITY MANAGEMENT**

* + 1. **DEFINITIONS** 
       1. “**Breach of Security**” means the occurrence of:
          1. any unauthorised access to or use of the Services, Netlink Star Premises, the Sites, the Supplier System, Netlink Star System (to the extent that it is under the control of the Supplier) and/or any IT, information or data (including the Confidential Information and Netlink Star Data) used by Netlink Star and/or the Supplier in connection with this Agreement; and/or
          2. the loss, corruption and/or unauthorised disclosure of any information or data (including the Confidential Information and Netlink Star Data), including any copies of such information or data, used by Netlink Star and/or the Supplier in connection with this Agreement,

in either case as more particularly set out in the security requirements set out in the Services Description, the Baseline Security Requirements and any specific security requirements set out in Schedule 2.1 (Services Description);

* + - 1. **“CHECK Scheme”** means the scheme for penetration testing of data processing systems operated by the Communications-Electronics Security Group (part of the NCSC);
      2. **“ISMS”** meansthe information security management system and processes developed by the Supplier in accordance with paragraph 3 as updated from time to time;
      3. **“Security Policy Framework”** meansthe Security Policy Framework published by the Cabinet Office as updated from time to time including any details notified by Netlink Star to the Supplier; and
      4. **“Security Tests”** meanstests carried out where relevant in accordance with the CHECK Scheme or to an equivalent standard to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.
      5. “**SOC NR**” means Netlink Star’s Security Operations Centre.
    1. **INTRODUCTION** 
       1. The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Agreement will be met.
       2. The Parties shall each appoint a member of the Services Steering Board to be responsible for security. The initial member of the Services Steering Board appointed by the Supplier for such purpose shall be the person named as such in Schedule 9 (Key Personnel) and the provisions of clauses 16.3 to 16.6 (Key Personnel) shall apply in relation to such person.
       3. The Supplier shall comply with all Baseline Security Requirements set out in this Schedule.
       4. Both Parties shall provide a reasonable level of access to any members of their personnel appropriately vetted and on an as needed basis providing it is at all times in compliance with Netlink Star Standards and Policies for the purposes of designing, implementing and managing security. The Supplier acknowledges that Netlink Star must retain its capability to monitor the Netlink Star Software, Netlink Star System or third party network connections.
       5. The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Netlink Star Data and any system that could directly or indirectly have an impact on that information, and shall ensure that Netlink Star Data remains under the effective control of the Supplier at all times.
       6. The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation, tools and systems including any tools used on the Netlink Star Premises or Netlink Star Systems, and on request shall supply this document and any updates as soon as practicable to Netlink Star.
       7. Netlink Star and the Supplier acknowledge that information security risks are shared between the Parties in the spirit of collaboration and that a compromise of either the Supplier or Netlink Star’s security represents an unacceptable risk to Netlink Star requiring immediate communication and co-operation between the Parties.
    2. **ISMS** 
       1. Netlink Star shall share the ISMS with the Supplier for the purposes of this Agreement.
       2. The Supplier acknowledges and agrees that Netlink Star places great emphasis on the reliability of the Services and confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall comply with the ISMS and report on this as part of Governance set out in Schedule 8.1 (Governance) at the Service Management Review Meeting.
    3. **SECURITY MANAGEMENT PLAN** 
       1. Within 20 Working Days following the Effective Date the Supplier shall prepare and submit to Netlink Star for approval in accordance with Paragraph 4.3 a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of Paragraph 4.2.
       2. The Security Management Plan shall:
          1. be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including Netlink Star Premises, the Sites, the Supplier System, Netlink Star System and any IT, information and data (including Netlink Star Confidential Information and Netlink Star Data) to the extent used by Netlink Star or the Supplier in connection with this Agreement;
          2. meet the relevant standards as set out in this Agreement
          3. as a minimum demonstrate Good Industry Practice;
          4. address issues of incompatibility with the Supplier’s own organisational security policies;
          5. meet any specific security threats of immediate relevance to the Services and/or Netlink Star Data;
          6. comply with any security requirements set out in Schedule 2.1 (Services Description)
          7. comply with Netlink Star’s IT policies and standards; and
          8. be developed and maintained in accordance with:

all applicable Law and this Agreement; and

any vulnerability management policy and processes set out by Netlink Star;

* + - * 1. set out processes agreed with Netlink Star 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 Supplier becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Netlink Star approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy;
        2. be certified by (or by a person with the direct delegated authority of) a Supplier’s main board representative, being the Chief Security Officer, Chief Information Officer, Chief Technical Officer or Chief Financial Officer (or equivalent as agreed in writing by Netlink Star in advance of issue of the relevant Security Management Plan);
        3. be based on the initial Security Management Plan set out in Annex 2.6B;
        4. comply with the Baseline Security Requirements;
        5. identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
        6. detail the process for managing any security risks from Sub-contractors and third parties authorised by Netlink Star with access to the Services, processes associated with the delivery of the Services, Netlink Star Premises, the Sites, the Supplier System, Netlink Star System (to extent that it is under the control of the Supplier) and any IT, Information and data (including Netlink Star Confidential Information and Netlink Star Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Services;
        7. unless otherwise specified by Netlink Star in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including Netlink Star Premises, the Sites, the Supplier System, Netlink Star System (to the extent that it is under the control of the Supplier) and any IT, Information and data (including Netlink Star Confidential Information and Netlink Star Data) to the extent used by Netlink Star or the Supplier in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
        8. set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with standards, IT policies and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Schedule and they align with Netlink Star security processes, procedures and solutions;
        9. set out the scope of Netlink Star System that is under the control of the Supplier;
        10. be structured in accordance with Netlink Star Security Assurance Framework, cross-referencing if necessary to other Schedules which cover specific areas included within those standards;
        11. be written in plain English in language which is readily comprehensible to the staff of the Supplier and Netlink Star 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
        12. be in accordance with the Netlink Star Security Assurance Framework.
      1. If the Security Management Plan submitted to Netlink Star pursuant to Paragraph 4.1 is approved by Netlink Star, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by Netlink Star, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from Netlink Star and re-submit it to Netlink Star for approval. The Parties shall use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to Netlink Star. If Netlink Star does not approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No approval to be given by Netlink Star pursuant to this Paragraph 4.3 may be unreasonably withheld or delayed. However, any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
      2. Approval by Netlink Star of the Security Management Plan pursuant to Paragraph 4.3 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.
    1. **AMENDMENT AND REVISION OF THE ISMS AND SECURITY MANAGEMENT PLAN** 
       1. The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier regularly and at least annually to reflect:
          1. emerging changes in Good Industry Practice;
          2. any change or proposed change to the IT Environment, the Services and/or associated processes;
          3. any new perceived or changed internal or external security threats or changes to the risk environment;
          4. any lessons learned as the result of a potential incident or incident response exercise; and
          5. any reasonable change in requirement requested by Netlink Star.
       2. The Supplier shall provide Netlink Star with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to Netlink Star. The results of the review shall include, without limitation:
          1. suggested improvements to, or recommended changes to improve, the effectiveness of the ISMS (maintained by Netlink Star) and Security Management Plan (maintained by the Supplier);
          2. updates to the risk assessments including significant changes in the internal or external risk environments;
          3. proposed modifications to respond to events that may impact on the ISMS ISMS or Security Management Plan including the security incident management process, incident response plans (including any lessons learned from an incident or training exercise) and general procedures and controls that affect information security; and
          4. suggested improvements in measuring the effectiveness of controls.
       3. Subject to Paragraph 5.4, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to Paragraph 5.1, a Netlink Star request, a change to the Services Description or otherwise) shall be subject to the Change Control Procedure and shall not be implemented until approved in writing by Netlink Star.
       4. Netlink Star may, where it is reasonable to do so, approve and require changes or amendments to the Security Management 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 Agreement.
    2. **SECURITY TESTING** 
       1. The Supplier shall conduct all relevant Security Tests in their environment from time to time (to ensure there is no vulnerability in the estate and at least annually across the scope of the Security Management Plan) without cost to Netlink Star and additionally after significant architectural changes to the IT Environment or after any change or amendment to the ISMS, (including security incident management processes and incident response plans) or the Security Management Plan.
       2. Security Tests shall be designed and implemented by the Supplier 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 Netlink Star in accordance with Schedule 2.2 (Service Levels).
       3. Netlink Star shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide Netlink Star with the results of such tests (in a form approved by Netlink Star in advance) as soon as practicable after completion of each Security Test.
       4. Without prejudice to any other right of audit or access granted to Netlink Star pursuant to this Agreement, Netlink Star and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and Security Management Plan and the Supplier's compliance with the ISMS and the Security Management Plan to mitigate all risks identified. Netlink Star may notify the Supplier of the results of such tests after completion of each such test. If any such Netlink Star test adversely affects the Supplier’s ability to deliver the Services so as to meet the Target Performance Levels, the Supplier shall be granted relief against any resultant underperformance for the period of Netlink Star test.
       5. Where any Security Test carried out pursuant to Paragraphs 6.3 or 6.4 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify Netlink Star of any changes to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to Netlink Star's prior written approval, the Supplier shall implement such changes to the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with Netlink Star or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Management Plan is to address a non-compliance with the Baseline Security Requirements or security requirements (as set out in the Services Description) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to Netlink Star.
       6. If any repeat Security Test carried out pursuant to Paragraph 6.5 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default for the purposes of clause 30.1.3 (Rectification Plan Process).
    3. **SECURITY MANAGEMENT PLAN COMPLIANCE** 
       1. Netlink Star shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the Security Management Plan maintains compliance with the principles and practices of ISO 27001, the specific security requirements set out in the Services Description, the requirements of this Schedule and the Baseline Security Requirements.
       2. If, on the basis of evidence provided by such audits, it is Netlink Star's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001, the specific security requirements set out in the Services Description, the requirements of this Schedule and/or the Baseline Security Requirements is not being achieved by the Supplier, then Netlink Star shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement any necessary remedy. If the Supplier does not become compliant within the required time then Netlink Star shall have the right to obtain an independent audit against these standards in whole or in part.
       3. If, as a result of any such independent audit as described in Paragraph 7.2 the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001, the specific security requirements set out in the Services Description, the requirements of this Schedule and/or the Baseline Security Requirements then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by Netlink Star in obtaining such audit.
    4. **BREACH OF SECURITY** 
       1. Either Party shall notify the other in accordance with the agreed security incident management process as defined by the Security Management Plan upon becoming aware of any Breach of Security or attempted Breach of Security.
       2. Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8.1, the Supplier shall:
          1. immediately take all reasonable steps either on the request of the security operations centre or following a pre-authorised response plan in order to:

minimise the extent of actual or potential harm caused by any Breach of Security;

follow the instructions of SOC NR to remedy such Breach of Security to the extent possible and protect the integrity of the IT Environment to the extent within its control against any such Breach of Security or attempted Breach of Security;

keep SOC NR informed as to the progress of remedial actions related to the Breach of Security and of any change in the security situation (virtual or physical) at the intervals specified by SOC NR or, where no such interval has been specified, within a reasonable timeframe.

where pre-approved by Netlink Star or requested by SOC NR, apply a mitigation against any such Breach of Security or attempted Breach of Security and, provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier’s ability to deliver the Services so as to meet the Target Performance Levels, the Supplier shall be granted relief against any resultant under-performance for such period as Netlink Star, acting reasonably, may specify by written notice to the Supplier;

prevent a further Breach of Security or attempted Breach of Security in the future exploiting the same root cause failure; and

supply any requested data to Netlink Star or the NCSC on Netlink Star’s request as soon as possible and in any event within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and

as soon as reasonably practicable provide to Netlink Star full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by Netlink Star.

* + - 1. In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance with the Security Management Plan Baseline Security Requirements, the security requirements set out in the Services Description or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to Netlink Star.
    1. **VULNERABILITIES AND CORRECTIVE ACTION** 
       1. Netlink Star and the Supplier acknowledge that at any point vulnerabilities in the IT Environment will be discovered which unless mitigated will present an unacceptable risk to Netlink Star’s information.
       2. The severity of threat vulnerabilities for Supplier COTS Software and Third Party COTS Software shall be categorised by the Supplier as ‘Critical’, ‘Important’ and ‘Other’ by aligning these categories to the vulnerability scoring according to the agreed method in the Security Management Plan (which must always align to any Netlink Star vulnerability management process) and using the appropriate vulnerability scoring systems including:
          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
          2. Microsoft’s ‘Security Bulletin Severity Rating System’ ratings ‘Critical’, ‘Important’, and the two remaining levels (‘Moderate’ and ‘Low’) respectively.
       3. The Supplier shall implement the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as ‘Critical’ within two (2) days of release, ‘Important’ or ‘High’ within 30 days of release and all ‘Other’ (including ‘Medium’ and ‘Low’) within 60 Working Days of release, except where:
          1. the Supplier can objectively demonstrate on an ongoing basis that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;
          2. the application of a ‘Critical’ or ‘Important’ security patch significantly adversely affects the Supplier’s ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of five (5) days, provided the Supplier had followed and continues to follow the security patch test plan agreed with Netlink Star;
          3. Netlink Star agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the Security Management Plan; or
          4. either Party advises that it is not possible to implement a security patch (and evidences the same and raises a risk alert to Netlink Star) and Netlink Star agrees that this is the case, in which case the Parties shall work together to promptly (and in any case within the same timeframes for patching in Paragraph 9.3 above) find an alternative security mitigation to such vulnerability.
       4. The Supplier Solution and Implementation Plan shall include provisions for major version upgrades of all Netlink Star Software to be upgraded within six (6) months of the release of the latest version, such that it is no more than one (1) major version level below the latest release (normally codified as running software no older than the ‘n-1 version’) throughout the Term unless:
          1. where upgrading such Netlink Star Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 months of release of the latest version; or
          2. is agreed with Netlink Star in writing.
       5. The Supplier shall:
          1. implement a mechanism involving the SOC NR for receiving, analysing and acting upon threat information supplied by Netlink Star or the NCSC, or any other competent Central Government Body;
          2. ensure that the IT Environment (to the extent that the IT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
          3. ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the IT Environment by actively monitoring the threat landscape during the Term;
          4. pro-actively scan the IT Environment (to the extent that the IT Environment is within the control of the Supplier) for vulnerable components and addresses
          5. discovering vulnerabilities;
          6. from the date specified in the Security Management Plan (and before the first Operational Service Commencement Date) provide a report to Netlink Star within five (5) Working Days of the end of each month detailing both patched and outstanding vulnerabilities in the Netlink Star System (to the extent that the Netlink Star System is within the control of the Supplier) 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;
          7. propose interim mitigation measures to vulnerabilities in the IT Environment known to be exploitable where a security patch is not immediately available and work with the SOC NR to establish the best interim mitigation measures;
          8. 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 Supplier Solution and IT Environment); and
          9. immediately inform Netlink Star when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the Environment and provide initial indications of possible mitigations.
       6. If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under Paragraph 9, the Supplier shall immediately notify Netlink Star.
       7. A failure to comply with Paragraph 9.3 shall constitute a Notifiable Default, and the Supplier shall comply with the Rectification Plan Process.

**ANNEX 2.6A**

**BASELINE SECURITY REQUIREMENTS**

* + 1. **HIGHER CLASSIFICATIONS**
       1. The Supplier shall not handle Netlink Star information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from Netlink Star.
       2. When Netlink Star Data resides on a mobile, removable or a physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the UK Government NCSC to at least Foundation Grade, for example, under the NCSC Commercial Product Assurance scheme (“**CPA**”).
       3. Devices used to access or manage Netlink Star Data and services must be under the management authority of Netlink Star or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a ‘known good’ state prior to being provisioned into the management authority of Netlink Star. Unless otherwise agreed with Netlink Star in writing, all Supplier devices are expected to meet the set of security requirements set out in the NCSC End User Devices Platform Security Guidance [(https://www.ncsc.gov.uk/guidance/end-user-device-security)](https://www.ncsc.gov.uk/guidance/end-user-device-security). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with Netlink Star and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the NCSC guidance, then this should be agreed in writing on a case by case basis with Netlink Star.

**Data Processing, Storage, Management and Destruction.**

* + - 1. The Supplier and Netlink Star recognise the need for Netlink Star’s information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to Netlink Star the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Netlink Star information will be subject to at all times.
      2. Subject to the provisions of clause 26 (Protection of Personal Data), the Supplier shall agree any change in location of data storage, processing and administration beyond that which is set out in Schedule 12 (Protection of Personal Data) with Netlink Star in advance where the proposed location is outside the UK. Such approval shall not be unreasonably withheld or delayed unless specified otherwise in this Agreement and provided that storage, processing and management of any Netlink Star information is only carried out offshore within:
         1. the United Kingdom or European Economic Area (EEA); or
         2. in another country or territory outside the United Kingdom or EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the EU Commission.
      3. The Supplier shall:
         1. provide Netlink Star with all Netlink Star Data on demand in an agreed open format;
         2. have documented processes to guarantee availability of Netlink Star Data in the event of the Supplier ceasing to trade;
         3. securely destroy all media that has held Netlink Star Data at the end of life of that media in line with Good Industry Practice; and
         4. securely erase any or all Netlink Star Data held by the Supplier when requested to do so by Netlink Star.
    1. **NETWORKING** 
       1. Netlink Star requires that any Netlink Star Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA or through the use of pan government accredited encrypted networking services via the Public Sector Network (“**PSN**”) framework (which makes use of Foundation Grade certified products).
       2. Netlink Star requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.
    2. **SECURITY ARCHITECTURES** 
       1. The Supplier shall apply the ‘principle of least privilege’ (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Netlink Star Information.
       2. When designing and configuring the IT Environment (to the extent that the IT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a NCSC Certified Professional certification (https://www.ncsc.gov.uk/scheme/gchq-certifiedtraining) for all bespoke or complex components of the Supplier Solution.
    3. **PERSONNEL SECURITY** 
       1. Supplier Personnel shall be subject to pre-employment checks that include, as a minimum: employment history for at least the last three (3) years, identity, unspent criminal convictions and right to work (including nationality and immigration status).
       2. The Supplier and its employees, the Sub-contractors and other persons engaged by it in relation to this Agreement within the boundaries of the Site, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel at the Site and/or Netlink Star’s property.
       3. The Contractor shall undertake Baseline Personnel Security Standard (BPSS) preemployment checks, as stated in the [HMG Personnel Security Controls,](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664073/HMG_Personnel_Security_Controls_V3.0_December_2017_final_.pdf) for all Supplier Personnel that have access to Netlink Star premises or Netlink Star IT networks.
       4. Under the National Asset sets Security Programme (NRSP) some Supplier Personnel will be required to complete additional security checks as outlined in [HMG Personnel Security Controls.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664073/HMG_Personnel_Security_Controls_V3.0_December_2017_final_.pdf) This applies to Critical National Infrastructure (CNI) sites and Managed Stations and those with access to CNI systems and information on sensitive asset movements. Netlink Star’s Representative may designate other roles requiring these additional checks.
       5. The Supplier shall prevent Supplier Personnel who are unable to obtain the required security clearances from accessing Netlink Star premises and Netlink Star IT networks.
       6. Under NRSP all Supplier Personnel are required to undergo bi-annual security training. These training records should be kept for five (5) years and be available on request. Supplier shall organise, implement such training for all Supplier Personnel and evidence the same to Netlink Star on request.
       7. The Supplier shall agree with Netlink Star on a case by case basis Supplier Personnel roles which require specific government clearances (such as ‘SC’) including system administrators with privileged access to IT systems which store or process Netlink Star Data.
       8. Where the Supplier or Sub-contractors grants increased IT privileges or access rights to Supplier Personnel, those Supplier Personnel shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.
    4. **IDENTITY, AUTHENTICATION AND ACCESS CONTROL** 
       1. The Supplier shall operate an access control regime to ensure all users and administrators of the Supplier Solution are uniquely identified and authenticated when accessing or administering the Services. Applying the ‘principle of least privilege’, users and administrators shall be allowed access only to those parts of the Supplier Solution they require. The Supplier shall retain an audit record of accesses which shall be provided to Netlink Star on demand.
    5. **AUDIT AND MONITORING** 
       1. The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises and share these with the Netlink Star Security Operations Centre as requested. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
          1. logs to facilitate the identification of the specific asset which makes every outbound request external to the IT Environment (to the extent that the IT Environment is within the control of the Supplier). To the extent the design of the Supplier Solution and Services allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
          2. security events generated in the IT Environment (to the extent that the IT Environment is within the control of the Supplier) and shall include: privileged account logon and logoff events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
       2. The Supplier and Netlink Star shall work together to establish any additional audit and monitoring requirements for the IT Environment.
       3. The Supplier shall retain audit records collected a period of at least six (6) months.

**ANNEX 2.6B**

**INITIAL SECURITY MANAGEMENT PLAN**

**(Accreditation) [Project/Service and Supplier Name]**

* + 1. Executive Summary

*<This section should contain a brief summary of the business context of the system, any key IA controls, the assurance work done, any off-shoring considerations and any significant residual risks that need acceptance.>*

* + 1. System Description
       1. Background

*< A short description of the project/product/system. Describe its purpose, functionality, aim and scope.>*

* + - 1. Organisational Ownership/Structure

*<Who owns the system and operates the system and the organisational governance structure. This should include how any ongoing security management is integrated into the project governance e.g. how a Security Working Group reports to the project board.>*

* + - 1. Information assets and flows

*<The information assets processed by the system which should include a simple high level diagram on one page. Include a list of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc.>*

* + - 1. System Architecture

*<A description of the physical system architecture, to include the system management. A diagram will be needed here>*

* + - 1. Users

*<A brief description of the system users, to include HMG users as well as any service provider users and system managers. If relevant, security clearance level requirements should be included.>*

* + - 1. Locations

*<Where the data assets are stored and managed from. If any locations hold independent security certifications (e.g. ISO27001:2013) these should be noted. Any off-shoring considerations should be detailed.>*

* + - 1. Test and Development Systems

*<Include information about any test and development systems, their locations and whether they contain live system data.>*

* + - 1. Key roles and responsibilities

*<A brief description of the lead security roles such as that of the SIRO, IAO, Security manager, Accreditor >*

* + 1. Risk Assessment
       1. Accreditation/Assurance Scope

*<This section describes the scope of the Accreditation/Assurance for the system. The scope of the assurance assessment should be clearly indicated, with components of the architecture upon which reliance is placed but assurance will not be done clearly shown e.g. a cloud hosting service. A logical diagram should be used along with a brief description of the components.>*

* + - 1. Risk appetite

*<A risk appetite should be agreed with the SIRO/SRO and included here.>*

* + - 1. Business impact assessment

*< A description of the information assets and the impact of their loss or corruption (e.g. large amounts of Official Sensitive personal data the loss of which would be severely damaging to individuals, embarrassing to HMG, and make HMG liable to ICO investigations) in business terms should be included. This section should cover the impact on loss of confidentiality, integrity and availability of the assets. The format of this assessment may be dependent on the risk assessment method chosen.>*

* + - 1. Risk assessment

*<The content of this section will depend on the risk assessment methodology chosen, but should contain the output of the formal information risk assessment in a prioritised list using business language. Experts on the system and business process should have been involved in the risk assessment to ensure the formal risk methodology used has not missed out any risks. The example table below should be used as the format to identify the risks and document the controls used to mitigate those risks. >*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Risk ID** | **Inherent Risk** | **Inherent risk level** | **Vulnerability** | **Controls** | **Residual risk level** |
| R1 | Internet attackers could hack the system | Medium | The service systems are exposed to the internet via the web portal | C1: Internet facing firewalls  C2: Internet-facing IP whitelist  C3: System hardening deleted when processed  C4: Protective Monitoring  C5: Application access control  C16: Anti-virus for incoming  files  C54: Files deleted when processed  C59: Removal of departmental identifier | Very low |
| R2 | Remote attackers could intercept of disrupt information crossing the internet | Medium | File sharing with organisations across the internet | C9: TLS communications  C10: PGP file- sharing | Very low |
| R3 | Internal users could maliciously or accidentally alter bank details | Medium  High | User’s bank details can be altered as part of the normal business function | C12: System administrators hold SC clearance.  C13: All changes to user information are logged and audited.  C14: Letters are automatically sent to users home addresses when bank details are altered.  C15: Staff awareness training | Low |

* + - 1. Controls

*<The controls listed above to mitigate the risks identified should be detailed. There should be a description of each control, further information and configuration details where relevant, and an assessment of the implementation status of, and assurance in, the control. A sample layout is included below.>*

|  |  |  |  |
| --- | --- | --- | --- |
| **ID** | **Control title** | **Control description** | **Further information and assurance status** |
| C1 | Internet-facing firewalls | Internet-facing firewalls are in place between the internet and the system, which restrict access from the internet to the required ports only. | Assured via ITHC firewall rule check. |
| C2 | Internet-facing IP whitelist | An IP whitelist is in place for all access from the internet | Assured via ITHC |
| C15 | Staff awareness training | All staff must undertake annual security awareness training and this process is audited and monitored by line managers | Assured as part of ISO27001 certification |

* + - 1. Residual risks and actions

*<A summary of the residual risks which are likely to be above the risk appetite stated after all controls have been applied and verified should be listed with actions and timescales included.>*

* + 1. In-service controls

*< This section should describe the controls relating to the information lifecycle, including development, testing, in-service, termination and on-going risk management and accreditation assurance. Details of any formal assurance requirements specified in the contract such as security CHECK testing or maintained ISO27001 certification should be included. This section should include at least:*

*(a) information risk management and timescales and triggers for a review;*

*(b) contractual patching requirements and timescales for the different prioritises of patch;*

*(c) protective monitoring arrangements to include how anomalous behaviour is identified and acted upon as well as how logging and auditing of user activity is done;*

*(d) configuration and change management;*

*(e) incident management;*

*(f) vulnerability management;*

*(g) user access management; and*

*(h) data sanitisation and disposal.>*

* + 1. Security Operating Procedures (SyOPs)

*< If needed any SyOps requirements should be included and referenced here.>*

* + 1. Major Hardware and Software and end of support dates

*< This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.>*

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Version** | **End of mainstream** | **Notes/RAG Status** |
| Server Host | HP XXXX | Feb 2020/March 2022 |  |

* + 1. Incident Management Process

*<The suppliers’ process, as agreed with the Authority/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Authority/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.>*

* + 1. Security Requirements for User Organisations

*<Any security requirements for connecting organisations or departments should be included or referenced here.>*

* + 1. Required Changes Register

*<The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.>*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Ref** | **Section** | **Change** | **Agreed with** | **Date agreed** | **Documentation updated** | **Status** |
| 1 | 6.4 | A new Third Party Supplier XXXX will be performing the print capability | Authority name | 11/11/2018 | Jul-2019 | Open |

* + 1. Personal Data Processing Statement

*<This should include: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; (ii) the*

*categories of Data Subjects whose Personal Data the Supplier and/or its Sub-*

*contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, (iv) the Protective Measures that*

*the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach.>*

**SCHEDULE 2.7**

**INSURANCE REQUIREMENTS**

### 1. **OBLIGATION TO MAINTAIN INSURANCES**

1.1 Without prejudice to its obligations to Netlink Star under this Agreement, including its indemnity obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 2.7A and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor operating the same or substantially similar business in respect of risks insured in the United Kingdom insurance market from time to time.

1.3 The Insurances shall be taken out and maintained with insurers who are:

1.3.1 of good financial standing;

1.3.2 appropriately regulated; and

1.3.3 except in the case of any Insurances provided by an Affiliate of the Supplier, of good repute in the United Kingdom insurance market.

1.4 Where any Insurances are provided by an Affiliate of the Supplier, the Supplier shall provide to Netlink Star on the Effective Date (or inception of the relevant Insurances if later) and thereafter within ten (10) Working Days of written request from Netlink Star evidence of good financial standing of the relevant Affiliate in a form satisfactory to Netlink Star. In the absence of a Financial Distress Event, Netlink Star shall not make any such request more than annually.

1.5 The Supplier shall ensure that the public and products liability insurance policy shall contain an indemnity to principals clause under which Netlink Star shall be indemnified in respect of claims made against Netlink Star in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Supplier is legally liable.

### 2. **GENERAL OBLIGATIONS**

2.1 Without limiting the other provisions of this Agreement, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### 3. **FAILURE TO INSURE**

3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to cancel, rescind or suspend any of the Insurances or cover, or to treat any of the Insurances, cover or claim as avoided in whole or in part refuse to pay any claim under any of the Insurances.

3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, Netlink Star may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and Netlink Star shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

### **4. EVIDENCE OF INSURANCES**

4.1 The Supplier shall provide notice to Netlink Star at least fifteen (15) days prior to the renewal or replacement of the Insurances that the Insurances shall be renewed or replaced and upon the Effective Date and within 20 Working Days after the renewal or replacement of each of the Insurances, the Supplier shall provide evidence, in a form satisfactory to Netlink Star (such as a certificate of insurance or a broker’s letter), confirming that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by Netlink Star shall not in itself constitute acceptance by Netlink Star or relieve the Supplier of any of its liabilities and obligations under this Agreement.

4.2 The Supplier shall provide any further information reasonably requested by Netlink Star in relation to the Insurances at any time on reasonable notice.

### 5. **AGGREGATE LIMIT OF INDEMNITY**

5.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":

5.1.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall immediately submit to Netlink Star:

(a) details of the policy concerned; and

(b) its proposed solution for maintaining the minimum limit of indemnity specified; and

5.1.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Supplier shall:

(a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or

(b) if the Supplier is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to Netlink Star full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

### 6. **CANCELLATION**

6.1 Subject to Paragraph 6.2, the Supplier shall notify Netlink Star in writing at least 20 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances, and as soon as reasonably practicable of any avoidance or attempted avoidance of any of the Insurances.

6.2 Without prejudice to the Supplier’s obligations under Paragraph 4, Paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

### 7. **INSURANCE CLAIMS**

7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Agreement for which it may be entitled to claim under any of the Insurances. In the event that Netlink Star receives a claim relating to or arising out of the Services and/or this Agreement, the Supplier shall reasonably co-operate with Netlink Star and reasonably assist it in dealing with such claims at its own expense including without limitation providing information and documentation (to the extent reasonably possible) in a timely manner.

7.2 Except where Netlink Star is the claimant party, the Supplier shall give Netlink Star notice within 20 Working Days after any insurance claim in excess of £500,000 relating to or arising out of the provision of the Services or this Agreement on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by Netlink Star) full details of the incident giving rise to the claim.

7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from Netlink Star any sum paid by way of excess or deductible under the Insurances whether under the terms of this Agreement or otherwise.

### 8. **LIMIT OF LIABILITY**

Neither failure to comply, nor full compliance, with the insurance provisions set out in this Schedule shall limit or relieve the Supplier of its other liabilities and obligations under this Agreement.

**ANNEX 2.7A**

**REQUIRED INSURANCES**

* 1. **PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE**

**1. Insured**

The Supplier.

**2. Interest**

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

2.1.2 loss of or damage to property;

happening during the period of insurance (as specified in paragraph 5 of Part A in this Annex) and arising out of or in connection with the provision of the Services and in connection withs Agreement.

* 1. **3. Limit of indemnity**

Not less than £10,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but £10,000,000 in the aggregate per annum in respect of products and pollution liability.

* 1. 4. **Territorial limits**

To include the United Kingdom.

### 5. Period of insurance

From the date of this Agreement for the Term and renewable on an annual basis unless agreed otherwise by Netlink Star in writing.

6. **Cover features and extensions**

Indemnity to principals clause.

**7. Principal exclusions**

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

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

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

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

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

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

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

**8. Maximum deductible threshold**

### Not to exceed 10% of the sum insured (such sum to be in accordance with Paragraph 3 of Part B of this Annex).

### **PART B: PROFESSIONAL INDEMNITY INSURANCE**

1. **Insured**

The Supplier.

1. **Interest**

To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants’ costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specified in Paragraph 5 of Part B in this Annex) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

1. **Limit of indemnity**

Not less than £5,000,000 in respect of any one (1) claim and in the aggregate per annum, exclusive of defence costs which are payable in addition.

1. **Territorial Limits**

To include the United Kingdom.

1. **Period of insurance**

From the date of this Agreement and renewable on an annual basis unless agreed otherwise by Netlink Star in writing (a) throughout the Term or until earlier termination of this Agreement and (b) for a period of six (6) years thereafter.

1. **Cover features and extensions**

Retroactive cover to apply to any claims made policy wording in respect of this Agreement or retroactive date to be no later than the Effective Date.

1. **Principal exclusions**

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

1. **Maximum deductible threshold**

Not to exceed 10% of the sum insured (such sum to be in accordance with Paragraph 3 of Part B of this Annex).

### **PART C: UNITED KINGDOM COMPULSORY INSURANCES**

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

**SCHEDULE 2.8**

**NOT USED**

**SCHEDULE 2.9**

**NOT USED**

**Schedule 3**

**Netlink Star ResponsibilIties**

1. **INTRODUCTION**
   1. This Schedule sets out Netlink Star’s Responsibilities under this Agreement.
   2. The responsibilities specified within this Schedule shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.
2. **OBLIGATIONS**
   1. Netlink Star shall:
      1. perform those obligations which are set out in the clauses of this Agreement and the Paragraphs of the Schedules;
      2. use all reasonable endeavours to provide the Supplier with reasonable access to appropriate members of its staff and its suppliers’ staff where such access is reasonably requested by the Supplier ten (10) days in advance (cancellable by Netlink Star on 48 hours’ notice) and such a meeting is highlighted as necessary in order for the Supplier to discharge its obligations throughout the Term;
      3. use all reasonable endeavours to provide the Supplier with reasonable access to its premises, data centres, systems and equipment to the extent such access is reasonably necessary for the Supplier to perform its obligations under this Agreement, provided that the Supplier has agreed and is following operational access protocols with any applicable third party data centre provider and such access shall be during normal working hours unless otherwise agreed (such agreement not to be unreasonably withheld or delayed) and the Supplier at all times complies with the requirements of this Agreement;
      4. comply with laws and regulations applicable to its business and be responsible for determining and directing the Supplier with respect to any processes and procedures applicable to Netlink Star’s business which Supplier must follow; and
      5. inform the Supplier via the Change Board where Netlink Star makes changes to any technology including software used in connection with the provision of the Services.
3. **SERVICE DESK RESPONSIBILITIES** 
   1. From the Operational Services Commencement Date, Netlink Star shall ensure that within Netlink Star weekday office hours its service desk capability logs, triages and assigns any tickets that are (i) raised with Netlink Star’s service desk and (ii) relate to the Services provided pursuant to this Agreement, to the Supplier. Notwithstanding this, the Supplier shall proactively monitor, identify and assess the impact of issues across the IT environment through the service as described in Schedule 2.1 (Services Description).

**SCHEDULE 4.1**

**SOLUTION SUMMARY**

# SUPPLIER SOLUTION SUMMARY

## This Schedule sets out the Supplier’s proposed solution to meeting Netlink Star’s requirements as described in the Invitation to Tender. This Schedule summarises the Supplier’s Solution based on the requirements in Netlink Star’s ITT and the Supplier’s response. There is an expectation that the solution will be developed further during transition planning and service delivery.

# TRANSITION

## The Supplier will deploy a Transition Manager who will be accountable for the transition and will work collaboratively with Netlink Star stakeholders, the incumbent and other suppliers to deliver the transition*.*

## **Pre-Transition Activities**

### The Supplier intends to undertake the following activities in advance of the Effective Date:

#### verifying key stakeholders from the Supplier and Netlink Star and its incumbent suppliers who will be part of the Transition programme governance;

#### carrying out an initial review of the delivery locations to re-validate the set-up timetable; and

#### providing the Supplier’s connectivity requirements to enable Netlink Star to meet its key dependency in this area.

## **Transition Solution Summary**

### The transition phases and approach are aligned to the Supplier’s standard best practice, as described in the table below:

| **Transition Phases** | **Deliverables to Netlink Star** |
| --- | --- |
| Netlink Star’s “Discovery and Planning” phase / Supplier’s “Preparation and Design” phase: The Supplier will understand the current state of the services to be transitioned, baseline the user experience and plan the business change involved in transitioning the services. These activities will be facilitated through workshops, interviews and by providing discovery templates that minimise the demands on the support teams as well as expose potential gaps early that can be addressed to avoid impacting the transition timeline. | * Team On-boarding * Data Centre Infrastructure and Platform Discovery * Plan including Exit Plan sign-off * Plan Stakeholder and KT Sessions * Create Transition Test Plan |
| Netlink Star’s “Transition” phase / Supplier’s “Transition Execution” phase: The Supplier will finalise the initial project plan based on findings during Preparation and Design build the new services. In addition to the plan, the Supplier will provide a baseline RACI and proposed governance/escalation process that can be adapted to offer transparency and accountability within the programme. | * Import knowledge * Process, Integration, and handover testing * Document and explain as-is situation, issues SLAs etc. * Plan Reverse KT Session * Handover tools |
| Netlink Star’s “Shadow Support and Transition Complete” phase / Supplier’s “Validation and Finalisation” phase: The Supplier will provide test scripts and manage user acceptance testing and acceptance to run testing to confirm the transition of the services can be completed without impacting the user experience. | * Shadow whilst executing requests * Support in executing teams * Support in performing in-scope services * KT sign-off * Create Transition Test Plan * Issues resolved with Netlink Star and Incumbents * Reverse Shadow ended * Supplier assuming responsibility for services * Transition exit sign-off by Netlink Star |
| Netlink Star’s “Operation Live” phase / Suppliers’ “Hyper Care” phase: The Supplier’s Transition team will provide early life support during the first weeks following Service Commencement. This will include experienced resources in key sites supported by Netlink Star service champions providing additional support to maintain the user experience. | * Demonstrate SLAs can be met * Service Management in place and RACI * Fully embedded Operational Services * Sign-off of full operation go-live by Netlink Star |

## **Outline Transition Plan**

### The outline Transition Plan is based on information provided to the Supplier during the ITT process. This approach may be modified following due diligence and detailed transition planning.

Redacted diagram

## **Milestones and Deliverables**

### The Supplier and Netlink Star will define the project artefacts and deliverables during Transition planning.

## **Transition Governance**

### Netlink Star and the Supplier will establish a three-tiered governance structure during the Implementation period with the following key features:

#### a project governance plan which will define the responsibilities of all parties along with the governance structures, bodies, and management processes that will be put in place. A programme level RAID log capturing Risks, Assumptions, Issues and Dependencies to be managed by the PMO and the Supplier’s Transition Managers. The Transition Director will use these outputs to provide a weekly programme report on the progress of the plan;

#### terms of Reference prepared and agreed during project initiation for each of the tiers of Governance to address the needs of relevant stakeholders: Netlink Star, the Supplier and the incumbent suppliers;

#### an Executive Board that includes senior Netlink Star stakeholders and senior sponsors from the Supplier, led by the Supplier’s Account Executive responsible for ensuring business alignment of the transition, providing strategic direction, and managing escalations from the Transition Board;

#### a Transition Board comprised of Netlink Star’s Service Lead and Commercial Lead and the Supplier’s Transition Director, Service Director, Contract Director and PMO. In order to support a collaborative approach, the incumbent suppliers will be invited to take part in this Board as required to ensure there is alignment and transparency between the parties;

#### the Transition Board will be responsible for managing the plan, providing authorisation to proceed on key milestones, managing the risk profile, managing delivery within scope, resolving issues between individual projects/streams where escalated and escalating to the Executive level where necessary.

#### individual project/stream meetings to track delivery of the plan on a day-to-day basis and which will feed into plan governance; and

#### the Supplier will align Transition governance with live service governance. All parties’ service management leads are key stakeholders and are embedded in the governance approach via inclusion within joint workstream and project meetings and in the Transition Board when appropriate.

## **Knowledge Exchange**

### The Supplier will deploy its knowledge acquisition method to plan, manage, assess complexity and execute knowledge transfer activities including training of staff. Knowledge acquisition is focused on the current services and how these will be transferred to the Supplier.

### The Supplier will appoint an experienced Knowledge Transfer Lead during project initiation to work with Netlink Star to:

#### create a knowledge transfer plan and RACI, gaining agreement from Netlink Star and incumbent suppliers;

#### analyse the documentation and skills used to deliver the current services;

#### define the acceptance criteria (including DR/BCP) to measure effective knowledge transfer;

#### recommend updates to the existing knowledge base;

#### work with Netlink Star and the incumbent supplier to acquire documentation, schedule review sessions and agree shadowing/reverse shadowing of the current team;

#### Identify and track transferred information components, identifying any potential risks and consider required mitigation actions; and

#### validate that the infrastructure build in the ARK DCs is in line with the technical and timeline requirements.

## **Transition Risk Management**

### The Supplier will undertake proactive risk management in accordance with Netlink Star’s processes and the Supplier’s project management methodology for risk management, illustrated as follows:

Chart, bubble chart

Description automatically generated

### The Supplier will ensure that this process is followed by all team members.

### Project risks will be recorded in the Risk Log. During project start-up and throughout the transition, new risks will be raised to the PMO by Netlink Star and Supplier project members. The Risk Log will include the action owner and impact date and will be assessed with appropriate mitigations in a Risk Control Plan. Risks will be reviewed by Netlink Star and the Supplier as part of the weekly team meetings, and key risks will be included in the weekly reports.

## **Dependencies and Obligations Management**

### Dependencies and obligations on Netlink Star are as defined and agreed in this Agreement. This includes dependencies and obligations that are on third parties contracted by Netlink Star as well as Disaster Recovery (DR) and Business Continuity Planning (BCP) to ensure alignment with the Supplier’s approach. Any additional obligations emerging during the project, together with the required delivery date, will be identified in the Project Progress Report or Monthly Project Status Report and managed via the Transition Programme Board and then via the formal Change Control Procedure if required. The Transition Progress Report and Monthly Project Status Reports will include the status of Netlink Star’s obligations relevant at the time of the report. Netlink Star and the Supplier will jointly monitor and report on progress of the dependencies to enable potential issues to be identified and actioned early. If Netlink Star does not meet an obligation, the Supplier will report this in the Project Progress Report and the Monthly Project Status Report.

## **Acceptance Criteria**

### The Supplier will manage service readiness testing and acceptance through the Acceptance to Run (AtR) process used for transitioning responsibility for services into live operations. The AtR process and principles will apply post take-on of live services for new projects/services being brought into live operation.

### The AtR process ensures that:

#### Service Operations are involved throughout the full lifecycle of the process and are ready to operate the new service in line with the quality, availability and resilience Service Level Agreements;

#### Operational Readiness Requirements (ORR) and Service Acceptance Criteria (SAC) are agreed during the Design phase and considered throughout the project lifecycle so that the transition of a new or modified service into Live Service Operation is delivered in line with agreed requirements and criteria; and

#### the Supplier and Netlink Star will agree the acceptance criteria required for both Parties to be comfortable that a de-risked transition of services can be undertaken. Prior to Service cutover, the Supplier will present evidence that the acceptance criteria have been achieved, enabling Netlink Star and its incumbent suppliers to verify the completion of the transition.

## **Quality Gates**

### The Supplier will complete the following Quality Gates at the end of each logical stage of the Transition. The Quality Gates focus on serviceability and quality rather than time and cost and will be aligned with standard stage gate processes where applicable:

#### Quality Gate 1 – Review the requirements and identify major risks and issues to service and operations.

#### Quality Gate 2 – Review the design from a service perspective, ensuring the warranty exit criteria and early life support is understood, confirming the run delivery teams are engaged.

#### Quality Gate 3 – Review the design for service impact, ensuring a request for change is raised and a test strategy is completed including Operational Acceptance Testing (OAT).

#### Quality Gate 4 – Complete the project up to system test and ready for handover for final testing, confirmation that Infrastructure is built to standard; test reports reviewed, support documents nearing completion.

#### Quality Gate 5a – Make recommendation for go live (live service Acceptance Criteria met), all testing completed (including operational and performance), support documentation complete, training done, knowledge transfer complete, support teams, access to tooling confirmed and early life support ready.

#### Quality Gate 5b – Service is stable and live service team takes full responsibility for the service, project team is released and early life support is complete.

#### Quality Gate 6 – Netlink Star acceptance through the project governance and in accordance with the Agreement.

# MIGRATION

## **Migration Resources**

### The Supplier will deliver end-to-end project management of the Migration Phase. A Programme Director and Project Team will work with Netlink Star’s IT stakeholders and business as well as application owners and application support teams. The Programme Director will be accountable for the migration phase and will be the senior escalation point.

### The Supplier’s Migration Project team will include a Programme Management Office (PMO) to ensure the timely production of migration deliverables aligned to the requirements of the Netlink Star GRIP process. A key activity of the PMO team will be to work with Netlink Star stakeholders to maintain a communication plan and gain approval and acceptance. Key roles within the Project Team include the Lead Architect and Technical Architect, which will be the primary interfaces for the Netlink Star Design Authority and technical resources.

### The Supplier’s Cloud Migration Factory (CMF) approach will be used to undertake the Migration Phase for Netlink Star. CMF is a methodology and supporting capability to migrate on-premise, hybrid and public cloud workloads. CMF will utilise an automated factory approach whilst meeting the required governance and control.

## **Migration Approach**

### The Supplier’s migration approach consists of four (4) phases:

|  |  |
| --- | --- |
| Phase 1: Discovery and Assessment | |
| Data collections and interviews | Capturing scope, discovery data and knowledge of the systems and integrations. |
| Technology status, inventory and dependency mapping | The Supplier will utilise its enhanced Application Portfolio Management (eAPM) tool and Cloudamize discovery tool to capture interdependencies between applications and infrastructure throughout the Netlink Star estate. The Supplier will work with the incumbent supplier responsible for the implementation of the Hosting Infrastructure in Crown Hosting and the supplier of the DC LAN to understand the new environments and validate the quality and performance of the new DC estate according to Netlink Star’s design and specification. |
| Project financials and resource planning | The Supplier will utilise its migration methodology designed to deliver projects on time and within budget. |
| Risk handling/ mitigations | The Supplier will manage risks throughout the project in collaboration with Netlink Star, application owners, the incumbent and other suppliers. |
| Phase 2: Planning and Preparation | |
| Define Change Batch (CB) candidates, dependency mapping | The Supplier will perform a detailed analysis of interdependencies to identify whether a particular workload should be moved from one wave/sprint to another. Tightly integrated apps will be moved together. The waves and batches will be decided with application owners and support. |
| Physical Inventory finalised and verified | Finalising all the inventory discovered with Netlink Star, verifying and gaining acceptance. |
| Resource planning, time plans | Sprints/waves planning will be done along with allocation of resourcing and updating the schedule with resource loading. |
| Service window negotiations | Working with the Netlink Star to agree windows for migration, recognising the criticality of applications and periods of reduced usage. |
| Detailed planning of individual CBs/cut-over | Detailed planning along with the key stakeholders, including Acceptance to Run (AtR) and Operational Readiness Requirement (ORR) checklist agreed. |
| Finalise run schedule, RFCs and work orders | Finalising the schedule and required work orders (if any), Request for Change and communication to the key stakeholders across Netlink Star and other suppliers. |
| Finalisation: run books and assessment workbooks | Finalising of run books and fail back mechanisms in case of failed migration. |
| Planning tool set-up tuning and verification | Configuring the migration tooling (VMware HCX) and testing its functionality. |
| Phase 3: Migration and Execution | |
| Execution of RFCs, work orders, run book | Executing the migration using the approach and tasks finalised and agreed in the previous phase. |
| Test and verification | Non-functional test will be carried out by the Supplier and UAT/functional testing will be done in partnership with Netlink Star to ensure service quality. |
| Documentation and lessons learned review | Documentation of lessons learned to be applied to upcoming waves/sprint. |
| Hand over to IT operations | AtR process followed with early life support until the systems are stabilised. |
| Decommission activities, servers and infrastructure | De-provisioning of the logical assets (VM/data/app) will be carried out in sprints, as and when migration is successful.  Physical decommissioning of the assets and disposal will be carried out by our partner based on WEEE regulations and disposed as NR/L3/INF/02231 when all workloads have migrated. |
| Phase 4: Acceptance to Run | |
| Service introduction | Once the migrations are successfully completed, all new infrastructure and application services are transferred to the Supplier’s managed services support via the AtR (Acceptance to Run) process.  This process will be followed as a framework, ensuring that new or transitioned services are introduced via this standard process. |
| Operational acceptance into Service | The Operational Readiness Review (ORR) checklist is a critical deliverable that defines Netlink Star’s view of what is required before services will be transferred from the incumbent vendor(s) to the Supplier. |
| Early life support | Hypercare support during this period will provide early life support for migrated workloads. |
| Knowledge articles | Learnings, methodology and estate configuration information will be documented in the CMDB and KM portal for future access/reuse. |

## **Detailed Design Quality**

### The Supplier will deliver this migration using its templates, best practices and prior learnings to create the design artefacts that will be used during the engagement. The Supplier will adhere to Netlink Star’s architecture governance process and in addition will:

#### work with the Netlink Star application owners, subject matter experts and architects to enhance the standard templated deliverables to ensure the required detail is captured;

#### run design workshops to identify standard elements that can be repeated across designs;

#### have its designs peer reviewed by the on-account Supplier architect; and

#### conduct a quality review of designs prior to release.

## **High-Level Migration Plan**

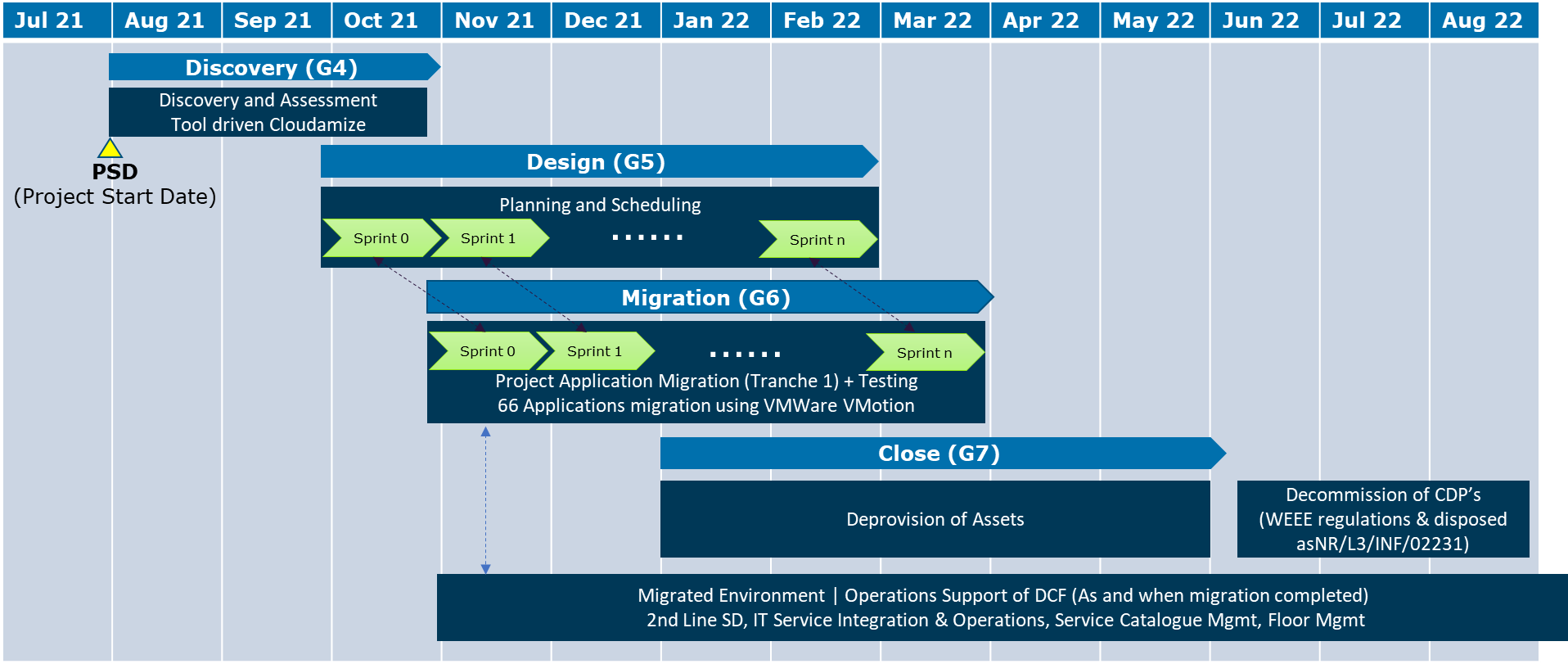
### The Supplier will migrate applications in alignment with Netlink Star’s phased approach as follows:

#### **Discovery (G4):** Key activities performed are: Application stacking, dependency mapping, manual and Cloudamize/eAPM discovery, completing data capture questionnaires, new environment testing, and assessment for DC Hosting and DC LAN, interviews with application owners, and defining the wave groups based on sprints.

#### **Design (G5):** Key activities performed are: Defining the Migration approach / method / tools, creating the landing zone and connectivity, Migration move group planning, developing the communication plan, resource planning and test strategy / planning.

#### **Migration (G6):** Key activities performed are: Proof of concept / pilot, sprints migration and testing/UAT.

#### **Close (G7):** Key activities performed are: Deprovisioning of the logical assets (VM / data / app) and physical decommissioning and disposal.



### The plan allows the Supplier to understand the interdependencies of the applications in their existing hosting environment and to validate and verify the design of the new DC estate plus five months of migration time. The plan also includes a Proof of Concept or Pilot (sprint 0) using non-production, non-critical workloads.

## **Migration Tooling**

### The Supplier will use VMware HCX™ to migrate workloads from existing to target data centres. VMware HCX™ is an application mobility platform designed for simplifying application migration, workload rebalancing and business continuity across data centres and clouds.

## **Migration Artefacts and Deliverables**

### The Supplier and Netlink Star will define the project artefacts and deliverables during Migration planning.

# OPERATE

## **Service Desk**

### During Transition and Migration, the Supplier will align its ITIL-based processes and methodologies to Netlink Star’s services and integrate tools to automate event management and performance management. The Supplier’s Service Desk will utilise these processes along with relevant service and operational information available via dashboards driven by the ITSM tools and the Supplier’s analytic and operational tools.

### The Supplier will provide a Level 2 Service Desk delivered from India 24x7 in English to act as the single point of contact for the Netlink Star end user service desk. The Supplier’s Service Desk will handle all inbound service desk interactions, perform first-time fixes where possible, allocate tickets to the correct resolver group following standard knowledge article processes, and perform incident tracking and ticket management.

### The Service Desk for Netlink Star will be located within the Supplier’s mutualised environment in its Kolkata delivery centre, which provides access to a pool of experienced resources and demand-based staffing. The Supplier’s Incident Management team will monitor queue levels and proactively work with assigned resolver teams to meet service levels and user expectations.

## **Remote Infrastructure Management**

### The Supplier will monitor Netlink Star’s services, compute, storage, databases, DC LAN and backup services from its Global Command Centre (GCC) in Mumbai, India. The GCC is comprised of a team of multi-skilled technical support staff that will provide first line support supported by second and third-line specialists from specialist skills groups. The GCC will provide monitoring and P1/P2 support 24x7 and P3-P5 support on a 8x5 basis.

### The Supplier will use its Artificial Intelligence Operations Platform (AIOPs) platform to monitor data centre components and applications. The Supplier will integrate Netlink Star’s existing Netcool, Icing, v-Realize and Cisco UCS with the Supplier’s AIOPs platform to enable event correlation and enhance root cause analysis.

### The Supplier’s data centre services solution will provide a robust secured service across Netlink Star’s CNI data centre landscape, with L0 considered as the automatic alerting system. The approach is based on a shift-left of events and incidents. Through the analysis of inventory, we understand sizable events are duplicates logged at similar time stamps and with the same description. Our AIOPs platform identifies these anomalies and removes the duplicate events. Only qualified events are presented to the Supplier’s GCC. If there is a standard operating procedure (SOP) or knowledge article available, the incident will be resolved at the L1 level and only complex tickets are passed to the L2 and L3 teams, ensuring that functional escalation is only performed where required. The team will provide a response to incidents and the right triage based on the ticket information to ensure the rapid response to any degradation of service quality.

### The GCC is mutualised across Supplier clients and has access to standard work instructions that enable faster resolution. The GCC will undertake:

#### Continuous monitoring of service quality and performance of Netlink Star’s IT infrastructure.

#### Continuous service improvement to drive down resolution times, potentially exceeding SLAs and improving service quality.

#### Registering and notification of events and incidents.

#### Follow-up of events and incident notifications through the monitoring solution.

#### Installation and/or customisation of agents on monitored devices.

#### Analysis and correlation of events to detect the origin of the issue.

#### Timely follow-up of critical calls, making sure they are properly routed to the appropriate resolver team.

#### Creation of log data for the monitored resources, which provides behavioural and resource analysis.

## **Reporting**

### The Supplier will deliver out-of-the-box reports via Tableau integrated with ServiceNow. Filtering criteria can be selected to narrow search results within reports. The Supplier will work with Netlink Star to review, modify, add or delete to the report set as reasonably needed to address business and operational requirements.

### Netlink Star will generate reports dynamically, and the Supplier has included two (2) Tableau user licenses for this purpose.

## **Service Management**

### A bi-directional interface called e-bonding will be established between Netlink Star’s SCCD and the Supplier’s ServiceNow. This integration will be achieved using Web Service communication via the Supplier’s Integration Platform as a Service (iPaaS) – a suite of cloud services enabling development, execution and governance of integration flows connecting on-premise and cloud-based processes, services, applications and data.

Redacted diagram

Diagram: Anticipated Service Management Data Flows

### The Supplier will operate, perform and retain end-to-end management of logged incidents and service requests for the Supplier’s support scope following common and agreed process for prioritisation, categorisation, escalation and closure of transactions.

### The Supplier will deliver the following

#### **Service Catalogue Management.** The Supplier will:

##### own and manage the contents of the Netlink Star Service Catalogue including reporting on consumption of services;

##### regularly review and maintain the Service Catalogue to ensure it remains relevant to and valid for Netlink Star;

##### assess and implement new services into the Service Catalogue; and

##### work with its ABI teams and the wider Supplier group to assess new services of value to Netlink Star.

#### **Service Level Management and Reporting.** The Supplier will:

##### provide a Service Level Manager responsible for managing and improving the quality and performance of service;

##### deploy Tableau reporting which includes 40 standard dashboards to drive identification and response to service quality and performance issues, impact levels and trends;

##### validate Service Level data to identify quality and performance issues and gaps;

##### conduct weekly operational level performance review meetings, monthly service level performance reviews and annual service level management reviews;

##### identify, log and manage the resolution of performance level issues and remediation plans in collaboration with Netlink Star’s representatives; and

##### modify monthly service level calculations to quarterly or greater if the volume of the incidents during a month is so low that a single failure could result in missing the Target performance level.

#### **Demand/Capacity/Availability Management.** The Supplier will:

##### coordinate capacity related communication and reporting across the service, providing current usage and forecasting to Netlink Star stakeholders.

##### map how the service components underpin Netlink Star’s business services so that capacity requirements can be linked to business plans and growth as per Netlink Star template.

##### evaluate the impact on IT service quality arising from any IT failures and identify single points of failure. and

##### perform both proactive and reactive availability management.

#### **IT Service Continuity.** The Supplier will:

##### manage the ITSC process for its services;

##### create, review and exercise ITSC plans and recovery guides;

##### ensure ITSC is integrated into the service Introduction and change management processes;

##### lead any invocations of the ITSC plans;

##### report on testing and invocations; and

##### integrate lessons learnt from invocation, testing and best practice into improving the ITSC plans and processes.

#### **Information Security Management.** The Supplier will:

##### manage creation of a Security Management Plan in line with Netlink Star’s Information Security Policies;

##### provide a liaison between the Supplier’s Security Management and Netlink Star’s SOC during security incidents;

##### manage vetting of Supplier delivery resources working on Netlink Star Systems to BPSS standard; and

##### Manage the Supplier DR/BCP requirements in line with Netlink Star’s policy.

#### **Service Management Reviews.** The Supplier will:

##### report on performance and quality of service provision.

##### act as a single point of contact for any disputes.

##### recommend continual service improvement initiatives. and

##### review any major incidents impacting the critical SLAs.

#### **Project Add-Ons.** The Supplier will:

##### create a Project Add-On Request system for standard/frequent requests;

##### create streamlined approvals for standard changes and triage nonstandard requests;

##### drive the delivery of the projects through governance;

##### take the change into service for ongoing operations; and

##### add frequent and similar non-standard requests to the catalogue.

#### **Change and Release Management.** The Supplier will:

##### work with the primary change coordinator;

##### provide analytics and quality checks on changes and releases to be implemented (lead times, unplanned changes, etc.);

##### run CAB calls for normal changes; and

##### audit enforcement and support.

#### **Service Asset and Configuration Management.** The Supplier will:

##### update the CMDB data model on a regular basis with the changes Netlink Star provides, including Business Service application and infrastructure relationships. This will be done in the Netlink Star SCCD ITSM tool and replicated in the Supplier’s ServiceNow ITSM tool; and

##### assign assets to support teams and service owners for proper management, validation and escalations.

#### **Service Validation and Testing.** The Supplier will perform an integrated pre-production test prior to implementing changes into the Production Environment, excluding application changes.

#### **Service Validation and Testing.** The Supplier will create, update and retire Knowledge Articles and associated documentation within the Service Knowledge Management System (SKMS).

#### **Event Management.** The Supplier will:

##### implement Splunk as the event correlation tool for all alerts related to server, storage, backup, network etc. as per the Supplier’s standard baselines;

##### enable auto-ticketing for all valid alerts as per configuration; and

##### provide a consistent approach to monitoring, event management, health checks and routine standard operating procedures (SOP) via its GCC.

#### **Incident and Major Incident Management.** The Supplier will:

##### undertake targeted CMDB driven auto-assignments and escalations;

##### notify Netlink Star if it becomes aware of a major incident;

##### deploy notifications sent directly from Incident ticket with built-in distribution lists and templates for support teams and business contacts;

##### act as a liaison between the Supplier’s Security Management and Netlink Star’s SOC during security incidents;

##### run MIRT calls for P1s to drive rapid resolution;

##### provide updates and regular communication on the status of high priority incidents;

##### perform end-to-end ownership of in-scope tickets;

##### perform breach monitoring and jeopardy management; and

##### manage the DR/BCP process.

#### **Problem Management.** The Supplier will:

##### use operational data to perform proactive analysis and trending; and

##### undertake automation of trend analysis to drive targeted corrective actions and improve service quality.

#### **Service Request Fulfilment.** The Supplier will:

##### receive inbound service requests logged via contact channels including self-service portal;

##### fulfil service requests where appropriate or assign to the relevant resolver team; and

##### manage open service requests to meet or exceed Netlink Star’s fulfilment SLAs.

#### **Continual Service Improvement.** The Supplier will:

##### review methodology and delivery to ensure lessons are learnt and applied to drive service quality and improvement;

##### maintain a CSI register to raise, track and charter service improvement initiatives; and

##### ensure that all improvement actions are agreed with Netlink Star and the resulting initiatives are tracked and managed.

#### **Remote Hands/Eyes.** The Supplier will use a partner to:

##### provide remote hands support to fix equipment and hardware issues, including WAN and Security appliances as requested by Netlink Star; and

##### replace or fix failed devices in accordance with Netlink Star’s policies and standards.

#### **Break/Fix.** The Supplier will:

##### the Supplier will use a partner to provide break/fix support using CCNA certified engineers in the Crown Hosting data centres; and

##### own break/fix issues and ensure end-to-end closure of any hardware related incidents and shall notify Netlink Star.

#### **Patching.** The Supplier will deploy:

##### Big Fix as the patching tool

##### auto patching to Red Hat Linux and Windows servers

##### its DigiOps Platform which will integrate AIOps tooling

#### **Supplier Management.** The Supplier will:

##### understand service provider scope of services and the required quality and performance of those services;

##### develop a communication strategy;

##### develop a process to track and govern the Supplier’s compliance to key deliverables and obligations;

##### ensure reports meet stakeholders’ requirements;

##### provide performance monitoring reporting; and

##### ensure that agreed recommendations for improvements are acted upon and rolled out across the ecosystem.

#### **Service Dashboard.** The Supplier will:

##### deploy Tableau dashboard and reporting, integrated with ServiceNow;

##### deploy 40 standard service dashboards out of the box; and

##### review, modify, add or delete to the report set as reasonably needed to address business and operational requirements.

### The ownership and escalation for faults resolved by the Supplier will be handled in the same manner, and the same ITIL-based management processes will be applied irrespective of resolver group.

## **Automation**

### The following automation levers will be configured in the Supplier’s tooling and available to Netlink Star:

#### Service Portal with text search capability to find catalogue items, knowledge articles and requests/incidents;

#### web-based chat to interact with the Netlink Star service desk;

#### event correlation to capture events from monitoring tools and correlate them into ServiceNow tickets;

#### Self-Healing to automate resolution of some potential issues before they can become incidents; and

#### Operational Insights from automated reporting leveraging Tableau integration with ServiceNow.

## **Security Management**

### Security Governance

#### The Supplier will provide a UK-based Security Manager to ensure security governance and compliance. Additionally, during the migration, a UK-based Security Architect will ensure compliance with Netlink Star’s requirements.

#### All delivery staff working onsite at Netlink Star’s data centres will be vetted to BPSS standard, and the Supplier’s standard inter-company agreement form will be used for offshore services to meet regulatory requirements. The Supplier’s India delivery location is ISO27001 certified.

### Information Security

#### The Supplier will meet its security obligations and applicable laws and regulations by adhering to Netlink Star’s organised and structured Information Security Framework (ISF) for delivery of our data centre Services. These will contain clearly set out risk management responsibilities and security controls, measures and procedures.

#### The Supplier will create an internal Security Management Plan (SMP) based on Netlink Star’s ISF. The SMP will:

##### provide an overview of security activities and controls needed to comply with agreed Netlink Star security requirements; and

##### formalise the working relationships between those people that are to carry out security duties in support of this service by setting out their security roles and responsibilities.

#### The SMP content will be kept to a useful and manageable level of detail relevant to the services provided. Low-level information on security controls and measures will be described in other approved security documents such as IT build standards, Operational Procedure documents etc. The SMP will be updated and maintained under change control to reflect any changes to the in-scope data centre services as they evolve.

### Information Security Management. The Supplier will:

#### manage creation of a Security Management Plan in line with Netlink Star’s Information Security Policies;

#### provide a liaison between the Supplier’s Security Management and Netlink Star’s SOC during security incidents;

#### manage vetting of Supplier delivery resources working on Netlink Star Systems to BPSS standard;

#### manage the Supplier DR/BCP requirements in line with Netlink Star’s policy; and

#### carry out background verification checks for delivery staff assigned to Netlink Star in line with UK Government standard BPSS or equivalent. The Supplier will utilise its UK-based security vetting team to administer and manage personnel security requirements for its resources in accordance with contractual requirements, the Supplier’s vetting policy and UK Government standards. Security vetting team members are cleared to HM Government SC level.

## **Service Resilience and Recovery**

### The Supplier’s support teams, including the L2 service desk delivering services to Netlink Star, will be primarily split across two India delivery centres, enabling the Supplier to continue delivering service without interruption in the event of a major incident at one of the locations. Both locations have detailed Business Continuity plans in line with Industry standards that are regularly reviewed, exercised, and updated. Supplier staff and equipment can be deployed to alternative or home locations as required. The Supplier’s account management team will be split between the UK and India, again enabling service governance to continue should there be an incident at one of the Supplier’s locations.

### The Supplier will provide an experienced BCDR team member who will be responsible for managing the account specific response to a disaster. This will include any bespoke BCDR plans agreed with Netlink Star.

# Organisation Structure

## **Delivery Organisation Approach**

### The Supplier will create an organisation deploying its industry proven processes, skills and industrialisation and will evolve this by:

#### holding regular service reviews and meetings to focus on the next challenge and how it can be met;

#### developing continuous improvement plans;

#### implementing new innovations, tooling and process; and

#### adjusting its organisational structure to meet the outcome of these reviews, plans and innovation approaches.

### The Supplier will work closely with Netlink Star staff at all levels of the organisation to accelerate the delivery of the project as well as Netlink Star’s incumbent and ongoing suppliers. It will also aid the transfer of business knowledge to the non-Netlink Star members of the project team, as well as the transfer of delivery and competency knowledge to Netlink Star.

## **Delivery Leadership**

### The following table lists the key roles the Supplier expects to be part of the overall governance and management of the Services. Each of the key roles will have the following core characteristics:

#### business and service focused individuals experienced in delivery across the transportation sector and/or Critical National Infrastructure environments;

#### focus on people and communication skills, collaboration and the ambition to continually train and improve; and

#### problem solving with the ability to work across ecosystem partners to remediate any challenges – all team members will have the fix-first mentality.

| Role | Responsibilities and Deliverables |
| --- | --- |
| Service Delivery Manager | The Service Delivery Manager (SDM) will serve as the single point of contact for Netlink Star.  The SDM:   * Acts as the primary liaison and single point of contact between the Supplier and Netlink Star representatives with respect to the Services * Manages issue resolution including escalation to the Account Executive on an as-needed basis * Serves as a point of escalation for all service delivery concerns and contractual issues * Participates in monthly service delivery reviews regarding SLA performance and service quality * Introduces new innovative products, services and technology to Netlink Star to improve service quality * Manages issue resolution including escalation to the Account Executive on an as-needed basis * Assists with the development of Netlink Star’s IT strategy * Performs quality assurance of operations activities * Serves as liaison to the retained Netlink Star information technology team * Drives and owns all Continuous Service Improvement across the Supplier managed estate   The SDM is accountable for:   * Services delivered across the locations to Netlink Star * The Supplier’s BCP and DR delivery * On-boarding/off-boarding of Supplier personnel |
| Programme Manager/ Transition Manager | The Transition Manager has the primary responsibility for managing the team and all activities related to transferring delivery responsibilities from the incumbents to the Supplier. This will include TUPE transition of in-scope employees and relevant subcontractors.  This is a full-time role during the service transition within the Supplier governance structure. The Transition Manager performs the following:   * Develops the detailed Transition Plan encompassing Transition activities for the in-scope services, ITIL Process Implementation, Reporting and the Governance Committee * Ensures that service levels, service quality and performance are not impacted during transition * Assigns and manages transition team members and manages the Transition work plan * Leads transition team meetings and prepare periodic status reports * Identifies Transition issues and discuss these with Netlink Star and Supplier leadership * Interacts with Netlink Star personnel assigned to the Transition team, and the Supplier’s executives sponsoring the Transition effort. |
| Operational Delivery Manager (Offshore) | The Operational Delivery Manager (ODM) will have day-to-day operational responsibility for the delivery of the services to Netlink Star from our offshore facilities.  The ODM performs the following:   * Management of the Supplier’s support teams based in India to the required service quality and performance * Continuous Service Improvement across operational areas * Serves as a point of escalation for operational delivery concerns and issues * Participates in monthly service delivery reviews regarding SLA performance and service quality * Provides technical and operational insight to Netlink Star * Leads the offshore BCDR Netlink Star restoration of services |
| Security Manager | The Security Manager will ensure that services delivered to Netlink Star by the Supplier are compliant and in line with the agreed policies and will attend the Risk and Security Board and Information Security Management Meetings. This role will work in close collaboration with Netlink Star’s security teams. |
| Account based Innovation (ABI) | The ABI team is dedicated to the delivery of an innovation culture with the Supplier’s delivery for Netlink Star. The team works across the Netlink Star engagements and in the wider transportation sector, enabling the sharing of knowledge and innovative developments directly with Netlink Star and delivery teams. The ABI team is a virtual team and is provided as an investment by the Supplier in its partnership with Netlink Star. |

### The Supplier’s leadership is fully committed to supporting Netlink Star through proactive engagements in the form of the Strategic Governance meetings and escalation where required. The Executive Management Team has been aligned to Netlink Star:

| Role | Name | Responsibilities and Deliverables |
| --- | --- | --- |
| Executive Sponsor and Head of Transportation Sector UK | Matthew Whitson | * To focus on Netlink Star’s business objectives, corporate strategy and ensure the Supplier’s alignment to exceed our commitments on collaboration and innovation * To ensure organisational commitment and support to the team and will be the Supplier representative on at the annual Board to Board meetings |
| Head of Transportation Sector Delivery, UK | Rachel Greedy | The Head of Transportation Sector Delivery owns all delivery for the Supplier’s transportation sector clients in the UK and:   * Leads the offshore BCDR Netlink Star restoration of services * Ensures alignment across all Supplier UK transportation sector accounts and will attend the bi-annual Chief Information Officer review meetings * Drives collaboration and innovation across transportation Sectors accounts, where information and learning can be shared. * Provides quarterly business updates to Netlink Star. |
| Netlink Star Account Executive | Tom Shanahan | The role of the Account Executive is to serve as the overall leader responsible for the services delivered by the Supplier. This individual has ultimate executive responsibility for the account. In addition, this individual will work closely with the SDM ensuring service quality in line with Netlink Star’s expectations. Our Account Executive will interact with Netlink Star’s Executive Leadership and participate in key executive meetings, such as the Strategic Account review meetings held quarterly. |
| Netlink Star Account Delivery Executive | Dave Gibson | The Netlink Star Account Delivery Executive is primarily responsible for all Supplier services delivered to Netlink Star, across projects and programmes and all Run services.  This role will drive collaboration and innovation across the account, looking for synergies and efficiencies within the Netlink Star delivery from the Supplier to provide increased benefit and will attend the quarterly Strategic Review meetings. |

## **Collaboration**

### During Transition, the Supplier will establish a Collaboration Agreement with key Suppliers built on the rules and principles below:

Redacted diagram

## **Proposed Governance Model**

### The Supplier’s Joint Strategic Commitment

#### The Supplier’s executive and account leadership will commit to the strategic partnership with Netlink Star as described within this document. That commitment starts at the top of our organisation, with the Supplier’s Head of the Travel and Transportation Sector being the executive sponsor, with delivery governance and control also at that executive level. This will empower the teams below to work towards the common goal of delivering service excellence, evolving the service enabling a smooth handover from Transition and Migration to BAU run services.

### Data Centre Operate and Migrate Account Governance

#### The Supplier’s proposed Data Centre Operate and Migrate Account Governance interlocks will facilitate the smooth running of the day-to-day operations and successful take on and operation of the Service. The model allows for control and efficient delivery of the transition and the BAU operations.

#### The Supplier will work with Netlink Star and its supplier ecosystem and lead the building of a specific Netlink Star ‘On-boarding pack’ detailing the specific ways of working, your business challenges, outcomes, policies, and procedures for the use of all staff regardless of company. Delivery team members will be on-boarded knowing not only their specific roles and capabilities but the context and criticality within the realms of Netlink Star.

#### A PMO staffing lead will manage the resourcing fulfilment, working ahead of the service commencement date to draft organisational models and role definitions. They will create a Resource Demand Plan listing all implementation and delivery roles, and then track progress. This spreadsheet contains the following:

##### description of role including grade, skills and competencies required;

##### base location for the role together with start and end dates;

##### any specific items with regards to that role e.g. shift work;

##### owner of the fulfilment; and

##### completion of Onboarding process.

#### The Supplier’s strategy for ensuring that it builds a strong delivery team is to mix experienced resources with new, fresh talent based on the following:

##### seed experienced Supplier staff into relevant areas of delivery;

##### retain members of the implementation team to continue into the delivery organisation to facilitate continuity of knowledge and relationships already developed; and

##### recruit early to ensure that new starters can work on other Supplier accounts so they are comfortable with the Supplier’s culture and values.

**SCHEDULE 4.2**

**COMMERCIALLY SENSITIVE INFORMATION**

| **No.** | **Date** | **Item(s)** | **Duration of Confidentiality** |
| --- | --- | --- | --- |
|  | From the Effective Date | Details of Supplier’s pricing methodology, policies and procedures including its Charges and Rate Card, asset out in Schedule 7.1(Charges & Invoicing) and Schedule 7.4 (Product and Service Catalogue) and any variation of any of the foregoing. | In perpetuity |
|  | From the Effective Date | Any documentation submitted by the Supplier to Netlink Star in support of claims for the Charges, including any financial reports or other documentation provided in accordance with audit requirements. | In perpetuity |
|  | From the Effective Date | Details of Service Levels as set out in Schedule 2.2 (Service Levels) and associated Service Credits as set out in Schedule 7.2 (Service Credits) and Service Credit Caps and any variation of any of the foregoing. | For the Term |
|  | From the Effective Date | Details of Supplier Solution as set out in Schedule 4.1 (Supplier Solution) | For the Term |
|  | From the Effective Date | Details of the limits of liability as set out in clause 28 (Liability) including any variation thereto. | In perpetuity |
|  | From the Effective Date | Details of the Supplier’s propriety background IPR, methodologies and tools to deliver the Services. | In perpetuity |
|  | From the Effective Date | Details of the benchmarking review process set out in Schedule 7.3, any benchmark review plan and benchmark report produced by the Benchmarker and any correspondence or communication between the Parties (and/or the Benchmarker) in connection with the benchmark process and any variation of any of the foregoing. | In perpetuity |
|  | From the Effective Date | All details relating to personnel including but not limited to the numbers of resources with specific skills, named resources in Schedule 9 (Key Personnel) numbers of security cleared staff, staff terms and conditions of employment and staff selection methods used for the purpose of managing the Supplier’s resources. | In perpetuity |
|  | From the Effective Date | The terms of the Supplier’s insurance which are strictly confidential. | In perpetuity |
|  | From the Effective Date | Terms of Suppliers subcontracts with its Affiliates. | In perpetuity |

**SCHEDULE 4.3**

**KEY SUB-CONTRACTORS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Key Sub- contractor name and address (if not the same as the registered office) | Registered office and company number | Related product/Service description | Key Sub- contract price expressed as a percentage of total projected Charges over the Term | Key role in delivery of the Services |
| N/A | N/A | N/A | N/A | N/A |

**SCHEDULE 4.4**

**SUPPLIER PREMISES**

1. This Schedule sets out the Supplier Premises, which are the Supplier’s and its Affiliate(s)’s delivery locations.

|  |  |  |  |
| --- | --- | --- | --- |
| **Company** | **Site Name** | **Function** | **Site Address** |
| Quroserv | Merlin | Data Centre |  |
| Quroserv | Toltec | Data Centre |  |
| Quroserv | Mumbai | Remote Infrastructure Management, Service Management |  |
| Quroserv | Kolkata | Service Desk |  |

1. Notwithstanding anything to the contrary in the Agreement, the Services may (at Supplier’s discretion) be performed by staff working from their homes and/or any Supplier offices and/or the offices of Supplier partners or subcontractors worldwide, and Netlink Star agrees that any rights of access it or third parties may have to the premises where the Services are provided from do not extend to the homes of staff.

**SCHEDULE 4.5**

**NOT USED**

**SCHEDULE 5**

**SOFTWARE**

PART A: HARDWARE

# THE NETLINK STAR HARDWARE

## The Netlink Star Hardware and Netlink Star Software, listed below on a non-exhaustive basis, comprises a list of the assets available to the Supplier as at the Effective Date*.* This list may be updated by the Supplier as and when required during discovery and/or prior to the Operational Service Commencement Date.

## This list will be updated by the Supplier and will form the basis of what is initially entered into the appropriate Netlink Star online database during the Initial Transition Project discovery phase. Any updates made to this list during the Initial Transition Project will not go through Change Control unless otherwise agreed by the parties.

## Following the end of the Initial Transition Project, the list of Netlink Star Hardware and Netlink Star Software will be maintained by the Supplier on the relevant Netlink Star online database.

|  |  |  |  |
| --- | --- | --- | --- |
| ***Hardware device/ item***  *(include description, make and model as applicable)* | ***Number of items*** | ***Purpose of use*** | ***Identification/ Serial Numbers***  *(as applicable)* |
| *Cisco NCS 55A1* | *4* | *DC Edge Router* |  |
| *Cisco NCS 540* | *8* | *Remote WAN router* |  |
| *Cisco MDS 9710* | *4* | *SAN Switch* |  |
| *Cisco APIC Appliance (UCS220 server)* | *20* | *ACI L3 Cluster* |  |
| *Cisco Hyperflex HX220c* | *6* | *Compute* |  |
| *Cisco Multi-Site Orchestrator (MSO)* | *6* | *Management* |  |
| *Cisco Nexus 9508* | *6* | *Spine Switch* |  |
| *Cisco Nexus 9332C* | *8* | *Spine Switch* |  |
| *Cisco Nexus 9504 ISN* | *4* | *Super Spine Switch* |  |
| *Cisco Nexus 9504* | *4* | *OOB Core* |  |
| *Cisco Nexus 93180YC-FX* | *116(128)* | *Leaf Switch, NSX router connection* |  |
| *Cisco Nexus 9348GC-FXP* | *108* | *OOB Switch* |  |
| *Cisco Firepower 9300* | *4* | *Chassis* |  |
| *Cisco Firepower Management Centre 2600* | *2* | *Management* |  |
| *Cisco Firepower Threat Defence (FTD)* | *16* | *Firewall* |  |
| *Cisco Integrated Management Controller (CIMC)* | *8* | *UCS Management* |  |
| *Radware* | *4* | *DDoS* |  |
| *TimeTools T300* | *4* | *NTP* |  |
| *Dell EMC VxRail P570F* | *64(72)* | *Compute* |  |
| *Dell EMC VxRail E560F* | *2* | *Compute* |  |
| *Dell PowerEdge R640* | *5* | *Compute* |  |
| *VMware vCenter Server Appliance* | *2* | *Management* |  |
| *VMware NSX-T Manager Appliance* | *6* | *Management* |  |
| *VMware NSX-T Edge Appliance* | *18* | *Edge Gateway* |  |
| *Dell VxRail Secure Remote Services (SRS) Appliance* | *2* | *Management* |  |
| *VMware Cloud Builder Appliance* | *1* | *Management* |  |
| *VMware SDDC Manager Appliance* | *1* | *Management* |  |
| *VMware vRealize Lifecycle Manager Appliance* | *1* | *Life Cycle Management* |  |
| *VMware vRealize Operations Manager Node Appliance* | *3* | *Monitoring* |  |
| *VMware vRealize Operations Collector Node Appliance* | *2* | *Monitoring* |  |
| *VMware vRealize Log Insight Node Appliance* | *3* | *Log Management* |  |
| *VMware vRealize Network Insight Appliance* | *1* | *Monitoring* |  |
| *vRealize Automation Appliance* | *3* | *Management* |  |
| *vRealize Automation IaaS Web Server* | *2* | *Management* |  |
| *vRealize Automation IaaS Manager Service* | *2* | *Management* |  |
| *vRealize Automation IaaS DEM Worker* | *2* | *Management* |  |
| *vRealize Automation IaaS Proxy Agent* | *2* | *Management* |  |
| *VMware Workspace ONE Access Appliance* | *3* | *Identity Management* |  |
| *VMware NSX Intelligence Appliance* | *1* | *Monitoring* |  |
| *vSAN Witness Appliance* | *2* | *Storage* |  |
| *Dell EMC Isilon H400 Appliance* | *8* | *Storage* |  |
| *Dell EMC Isilon Chassis* | *2* | *Storage* |  |
| *Dell EMC PowerSwitch S4112F* | *4* | *Switch* |  |
| *Dell EMC PowerMAX 2000 Brick Controller* | *4* | *Storage* |  |
| *Dell EMC PowerMAX 2000 Disk Array Enclosures* | *4* | *Storage* |  |
| *Dell EMC PowerMax Battery Enclosures* | *2* | *Storage* |  |
| *Dell EMC PowerMax Witness Server* | *4* | *Storage* |  |
| *Dell EMC Avamar Virtual Edition (AVE) Server* | *4* | *Backup* |  |
| *Dell EMC AVE Proxy* | *4* | *Backup* |  |
| *Dell EMC Data Protection Search Appliance* | *1* | *Backup* |  |
| *Dell EMC Data Protection Central Appliance* | *1* | *Backup* |  |
| *Dell EMC Data Protection Advisor* | *2* | *Backup* |  |
| *Dell EMC AVE NDMP Accelerator* | *2* | *Backup* |  |
| *Dell EMC Cyber Recovery Vault Management Appliance* | *1* | *Backup* |  |
| *Dell EMC CyberSense Server* | *1* | *Backup* |  |
| *Dell EMC Data Domain 6800* | *3* | *Backup* |  |
| *Dell EMC Data Domain DS60 Expansion*  *Shelf* | *6* | *Backup* |  |
| *Infoblox Trinzic Enterprise 4015* | *4* | *DDI Management* |  |
| *Infoblox Trinzic Enterprise 1415* | *4* | *DDI DHCP* |  |
| *Infoblox Trinzic Enterprise 2205* | *4* | *DDI DNS* |  |
| *Infoblox Trinzic Enterprise 5005* | *2* | *DDI Reporting* |  |
| *Infoblox* ND-v2205 *NIOS Appliance* | *1* | *Network Insight* |  |
| *Microsoft Active Directory Domain Controllers* | *20* | *Management* |  |
| *Citrix ADC Load Balancing* | *8* | *Load Balancing* |  |
| *Citrix StoreFront* | *8* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix WEM* | *8* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix Controller* | *8* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix Director* | *4* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix License Server* | *1* | *Citrix Virtual Apps and Desktops* |  |
| *RDS License Server* | *1* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix ADM Appliance* | *2* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix ADM Agent Appliance* | *2* | *Citrix Virtual Apps and Desktops* |  |
| *Citrix Gateway* | *8* | *Citrix Virtual Apps and Desktops* |  |
| *IBM DB2 DBMS* | *20* | *Database Service* |  |
| *Oracle DBMS* | *8(32)* | *Database Service* |  |
| *Oracle Data Guard Broker* | *1* | *Database Service* |  |
| *Microsoft SQL DBMS* | *12* | *Database Service* |  |
| *Microsoft SQL File Share Witness (FSW)* | *2* | *Database Service* |  |
| *Vertiv Geist GS 39964l-B* | *18* | *Power Distribution* |  |

# MAINTENANCE AND REPLACEMENT

## The Supplier will manage all warranty contracts for all Netlink Star Assets according to Paragraph 5.1.13 of Schedule 2.1 (Service Description).

## The Supplier will provide capacity management for all Netlink Star Assets according to Paragraph 5.1.9 of Schedule 2.1(Service Description).

## Supplier will provide manual inputs for usage of software licenses related to the Services for Netlink Star’s licensing database to allow;

### Netlink Star to check regularly the then-current database to ensure the Supplier is using Netlink Star Software and other tooling within Netlink Star’s existing licensing allowances; and

### Netlink Star to update the database each time the Supplier adds to, removes from or amends in any way the existing licensing arrangements contained within the database.

### In the event that the Supplier is building new VMs/Servers for Netlink Star, the Supplier shall install Flexera agent on the new VM/Server and all details of this reported back and for the information on the licenses to be reported back to Flexera servers.

### In the event that the Supplier procures new software and/or hardware on Netlink Star’s behalf then it shall complete all relevant FNMS form/template with relevant information and send the forms/template to the Netlink Star SAM team for the data to be imported into Flexera.

### The Supplier shall inform Netlink Star in advance if there is a change in licensing required by Netlink Star due to the procurement or installation by the Supplier and provide sufficient notice for Netlink Star to for example, procure more licenses or procure a wider license.

**PART B: SOFTWARE**

# THE SOFTWARE

## The Parties agree that they will update this Schedule periodically to record any Netlink Star Software, Supplier Software or Third Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.

## Software

*The Software includes the following items:*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Software name*** | ***Software supplier (Supplier or Third Party)*** | ***Purpose*** | ***Number of***  ***Licences*** | ***Type: Netlink Star Software/ Supplier Software or Third Party Software (COTS***  ***or Non-***  ***COTS)*** |
| *iDRAC9 Enterprise* | *Dell* | *Server Management* | *36* |  |
| *VMware vCenter Server 7 Standard* | *VMware* | *Virtualisation* | *2* |  |
| *VMware NSX Data Center Enterprise Plus* | *VMware* | *Networks* | *132* |  |
| *VMware vSphere 7 for Platinum Edition* | *VMware* | *Virtualisation* | *128* |  |
| *VMware vSAN 7 Enterprise* | *VMware* | *Storage* | *128* |  |
| *VMware SDDC Manager for Cloud Foundation 4* | *VMware* | *Virtualisation* | *128* |  |
| *VMware vRealize Suite 2019 Enterprise Edition (vRealize Operations Manager,* vRealize Log Insight, vRealize Lifecycle Manager, vRealize Automation*)* | *VMware* | *Virtualisation* | *128* |  |
| *VMWare vRealize Network Insight Enterprise* | *VMware* | *Management* | *128* |  |
| *IBM Db2 v11.5.5 Standard Edition* | *IBM* | *Database Service* | *12* |  |
| *Oracle Database 19c Enterprise Edition* | *Oracle* | *Database Service* | *TBC* |  |
| *Oracle Grid Infrastructure (GI) 19c* | *Oracle* | *Database Service* | *TBC* |  |
| *Microsoft SQL Server 2019 Enterprise Edition* | *Microsoft* | *Database Service* | *20* |  |
| *Microsoft Server 2019 Datacentre Edition* | *Microsoft* | *OS* | *1600* |  |
| *Microsoft Windows RDS* | *Microsoft* | *Remote Access* | *600 (User CAL)* |  |
| *Red Hat Enterprise Linux (Premium) for Virtual Datacenters* | *Red Hat/IBM* | *OS* | *80* |  |
| *Citrix VPX Advanced* | *Citrix* | *Virtualisation* | *40* |  |
| *Citrix Virtual Apps and Desktops Premium Edition User-Based Licenses* | *Citrix* | *Virtualisation* | *500* |  |
| *Trinzic 4015 Software Bundle, DDI and Grid* | *Infoblox* | *DDI* | *4* |  |
| *Trinzic Software Module Subscription, Cloud Network Automation* | *Infoblox* | *DDI* | *4* |  |
| *Network Insight 2205 Software Bundle, Network Insight and Grid* | *Infoblox* | *DDI* | *1* |  |
| *TR-5005 Reporting & Analytics Software Bundle* | *Infoblox* | *DDI* | *2* |  |
| *Reporting and Analytics* | *Infoblox* | *DDI* | *1* |  |
| *Trinzic 1425 Software Bundle* | *Infoblox* | *DDI* | *4* |  |
| *Trinzic 825 Software Bundle* | *Infoblox* | *DDI* | *4* |  |
| *Trinzic 2215 Software Bundle* | *Infoblox* | *DDI* | *4* |  |
| *Trinzic Advanced DNS Protection* | *Infoblox* | *DDI* | *4* |  |
| *Trinzic DNS Traffic Control* | *Infoblox* | *DDI* | *4* |  |
| *BloxOne Threat Defense Advanced* | *Infoblox* | *DDI* | *2500* |  |
| *Dell EMC RecoverPoint for Virtual Machines Data Protection Software* | *Dell EMC* | *Backup and Recovery* | *36* |  |
| *Dell EMC Isilon SyncIQ* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon SnapshotIQ* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon SmartQuotas* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon SmartPools* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon SmartConnect* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon OneFS Encryption Key Management* | *Dell EMC* | *Storage* | *8 (Tier 3 Base)* |  |
| *Dell EMC Isilon OneFS* | *Dell EMC* | *Storage* | *8 (Tier 3 Base), 240 (Tier 3 Capacity)* |  |
| *Dell EMC Isilon HDFS for OneFS* | *Dell EMC* | *Storage* | *8 (Tier 3 Base)* |  |
| *Dell EMC Data Protection Suite for VMware* | *Dell EMC* | *Backup and Recovery* | *128* |  |
| *Dell EMC Data Protection Central* | *Dell EMC* | *Backup and Recovery* | *1* |  |
| *Dell EMC Data Protection Search* | *Dell EMC* | *Backup and Recovery* | *1* |  |
| *Dell EMC Avamar Virtual Edition for VMware* | *Dell EMC* | *Backup and Recovery* | *4 (2TB)* |  |
| *Dell EMC Data Domain Boost for Enterprise Applications (DDBEA)* | *Dell EMC* | *Backup and Recovery* | *12* |  |
| *Dell EMC Cyber Recovery Vault* | *Dell EMC* | *Backup and Recovery* | *1* |  |
| *Dell EMC CyberSense* | *Dell EMC* | *Backup and Recovery* | *1* |  |
| *Dell EMC Data Protection Advisor* | *Dell EMC* | *Backup and Recovery* | *1* |  |

# NETLINK STAR APPLICATIONS

## Netlink Star will provide the following Netlink Star Software in application form for use by the Supplier for delivery of the Services in accordance with Paragraph 5.1.15 (Support for all tooling and application involved in the provision of the Operate Services) of Schedule 2.1 (Service Description).

### ‘Scope for the Supplier’ in Table below details:

#### ‘Update Data’ means the Supplier is responsible for creating and/or maintaining the data within the specific application;

#### ‘Maintain Agents’ means the Supplier is responsible for installation of relevant agents per standard build definitions and monitoring the status, as part of the specific application;

#### ‘Integrate’ means the Supplier is responsible for providing integration either to or from the specific application;

#### ‘TBD by Supplier’ means the Supplier to confirm how and if the specific application will be used;

#### ‘Own/Maintain’ means the Supplier is responsible for supporting the application;

#### This is without prejudice to the Supplier obligations set out in the terms and conditions of this Agreement in relation to Software.

### ‘Mandated Use’ details whether or not Netlink Star mandates the use of the specific application by the Supplier in the provision of the Operate Service.

| *Service* | *Application(s)* | *Purpose* | *Scope for*  *Supplier* | *Mandated Use* | *Further Scope Information* |
| --- | --- | --- | --- | --- | --- |
| *Configuration Management*  *and Asset Management* | *SCCD* | *IT Configuration/Asset Management* | * *Update Data* * *Integrate* | *Yes* | *Integration with Supplier tools for data consistency across both for incident management* |
| *ARM21, ANN21* | *Master inventory management of*  *1. Physical assets (IT and network devices)*  *2. Static network links* | * *Update Data* | *Yes* |  |
| *Incident and Problem Management* | *SCCD* |  | * *Update Data* * *Integrate* | *Yes* | *Integration between Supplier tool and Netlink Star tool* |
| *Event and Incident Management* | *Netcool* |  | * *Integrate* | *No* | *Integration between Supplier tool and Netlink Star tool* |
| *Server Workload Management* | *VMware VCF Suite* | *Software Defined Data Centre Services* | * *Own/Maintain* | *Yes* | *Including vCenter, ESXi, NSX-T, vSAN, SDDC* |
| *VMware vRealize Suite (including Operations app)* | *IT infrastructure component and application management (Incident Management, monitoring, provisioning and configuration management)* | * *Own/Maintain* * *Maintain agents* | *Yes* | *Integration between Supplier’s tools and Netlink Star tools* |
| *Backup and Recovery* | *Dell / EMC Data Domain and Avamar, and Cyber Recovery Vault* | *Backup and Recovery* | * *Own/Maintain* * *Maintain agents* | *Yes* |  |
| *Monitoring and Reporting* | *Grafana* | *Reporting analysis/visualization for monitoring data* | * *TBD by Supplier* * *Maintain agents* | *No* | *Netlink Star recommend the adoption of this tool* |
| *Domain Name System, Dynamic Host Configuration Protocol Management* | *Infoblox Trinzic* | *DDI (IPAM, DNS, DHCP) management* | * *Update Data* * *Own/maintain* | *Yes* | *Ongoing maintenance of DNS/DHCP Netlink Star data* |
| *License Management* | *FNMS* | *License management and compliance – software and hardware* | * *Update Data* * *Maintain agents* | *Yes* | *Provide requisite data for Netlink Star to update FNMS* |
| *Antivirus Updates* | *Trend Micro Deep Security* | *Antivirus for RHEL and Windows* | * *Maintain agents* | *No* | *Installation of relevant agents per standard build definitions*    *Monitor status of relevant agents* |
| *Data Centre Network Management* | *Cisco Data Center Network Manager* | *For LAN and SAN fabric/switches* | * *Own/maintain* | *Yes* |  |
| *Cisco Application Policy infrastructure Controller* |  | * *Own/maintain* | *Yes* |  |
| *Cisco UCS Manager* | *LAN UCS and hyperflex server management* | * *Own/maintain* | *Yes* |  |
| *Cisco Prime* | *NMS for Cisco LAN and DC edge routers* | * *Own/maintain* | *Yes* |  |
| *Data Centre Network performance monitoring and reporting* | *Solarwinds* | *Monitoring of Data Centre LAN and dynamic network services* | * *TBD by Supplier* | *No* |  |
| *Security Information and Event Management* | *QRadar™* | *Syslog security analysis* | * *Maintain agents* | *No* | *Installation of relevant agents per standard build definitions*  *Monitor status of relevant agents* |
| *Active Directory Management* | *Microsoft AD* | *Identify AAA management*  *Creation of OUs* | * *Own/maintain* | *Yes* |  |
| *Desktop and Application virtualisation and Load Balancing* | *Citrix Virtual Applications and Desktops*  *Citrix ADC Load Balancing* |  | * *Own/maintain* | *Yes* |  |
| *Database Management* | *Oracle,*  *MS-SQL*  *DB2* | *Database hosting platforms* | * *Own/maintain* | *Yes* |  |

# schedule 6.1

# Project Template Sheet

**To**

**[Data Centre Transition Migrate & Operate Services] Agreement**

**Dated: [Insert]**

**Project Sheet: 01**

|  |  |  |
| --- | --- | --- |
| 1. **Netlink Star:** | **NETLINK STAR INFRASTRUCTURE LIMITED** a company registered in England and Wales under company number 09666661 whose registered office is at 1 Elysian Street, London EE7 2DN | |
| 1. **Supplier:** | **QUROSERV UK PLC** a company registered in England and Wales under company number 97777935 whose registered office is at Blotten Vu, Woking, Surrey, KR98 6DB | |
| 1. **Terms:** | This Project Sheet is an agreement between Supplier and Netlink Star and incorporates, by reference, all the terms and conditions contained in the [Data Centre Transition Migrate & Operate Services] Agreement entered into between the Parties dated [insert date] (“**Agreement**”).  Unless separately defined in this Project Sheet, the defined terms used in this Project Sheet will have the same meanings as the defined terms in the Agreement. | |
| 1. **Project Services Commencement Date:** | The Project Services commence on [insert date]. | |
| 1. **Duration:** | [X] [weeks][months] from the Project Services Commencement Date.  OR  [Ending on [date]] | |
| 1. **Project:** | [Insert] | |
| 1. **Representatives:** | **Supplier:**  [Name, title, Contact details]  **Netlink Star:**  [Name, Title, Contact details] | |
| 1. **Project Services:** | Supplier shall:   1. [Insert detail of Project Services] | |
| 1. **Deliverables:** | Supplier will be responsible for delivering the following outcomes:   1. [List of deliverables] | |
| 1. **Acceptance Criteria and Testing** | [set out the acceptance criteria applicable to any Deliverables and Services as well as the acceptance Testing (and any other testing) to be carried out. State who will carry out the testing] | |
| 1. **Assumptions:** | [insert any assumptions e.g:]  [*Supplier resources will be billed on a [day/week/fixed] rate from the Project Services Commencement Date for the Duration of the Project Services*.] | |
| 1. **Dependencies:** | [Insert details, if any] | |
| 1. **Location of Project Services:** | [Insert location where Project Services will take place.]  With any other acceptable working locations to be confirmed with the Netlink Star Representative. | |
| 1. **Charges and Milestones:** | The Charges for the Project Services will be [insert total Charges payable] in accordance with:  [the pricing and payment profile and the invoicing procedure specified in Schedule 7.1 of the Agreement (Charges and Invoicing) together with any milestones]  OR  [the rate card set out in Annex 1]  [Insert any specific payment terms not covered in the Agreement] | |
| 1. **Data Protection:** | [Insert details e.g.:]  [*Supplier shall not receive access to any Personal Data when conducting this engagement. The Netlink Star warrants that any data shared with Supplier will not allow individuals to be identified.]*  *[In the event that Supplier requires access to Personal Data and it cannot be practically anonymised by the Netlink Star, the Parties shall update Schedule 12 as applicable. Supplier shall access this Personal Data only via suitably secured systems under the control of the Netlink Star and at the Netlink Star’s business premises. No Personal Data shall be transferred to Supplier systems.]* | |
| 1. **Expenses:** | [Insert details e.g.:]  [*Supplier resources attending site at Netlink Star as noted in Location of Project Services will not incur expenses.]* | |
| ***Signed by the Parties’ duly authorised representatives:*** | | |
| **Netlink Star**  Name:  Title:  Signature:  Date: | | **Supplier**  Name:  Title:  Signature:  Date: |

**ANNEX 1**

**[Project Sheet Rate Card]**

[Set out details of how the Charges are calculated below e.g.:]

*The rate card set out below shall apply to this Project Sheet.*

|  |  |
| --- | --- |
| ***Consultant Level*** | ***Charges (excluding VAT)*** |
| *INSERT DETAILS* |  |
|  |  |
|  |  |

SCHEDULE 6.2

**PROJECT SERVICES**

# General

## In relation to any Significant Change, the Supplier shall create and modify the Services through Projects in accordance with the Change Control Procedure. All modifications to the Services other than Significant Changes may be done without Projects, including via the Service Catalogue.

## The Supplier shall manage and deliver all Projects according to the best practice principles of PRINCE2, or by using its own equivalent (in Netlink Star’s reasonable opinion) project management methodology complying with the Netlink Star’s NRT Project Delivery Handbook (reference guide of the Project Delivery related processes and the Governance for Asset set Investment Project (GRIP) stages) to ensure compliance with Netlink Star’s project processes and stage gates.

## The Supplier will provide the following project management capabilities:

### reporting;

### risk and issue management;

### stakeholder management;

### resource planning; and

### project planning.

## Supplier shall assist Netlink Star with the preparation of each Draft Project Sheet and Project Sheet.

## The Supplier shall ensure that all Projects shall have a Project Sheet agreed between the Parties before the work can commence.

## The Supplier shall deliver all Projects according to a Project Plan which shall be agreed between the Parties for all Projects. The Supplier shall make all Project Plans available to specified Netlink Star staff in a programme or portfolio view.

# Project Template Sheet

## Netlink Star shall capture its requirements for any Project using the Project Template Sheet as outlined in Schedule 6.1 (Project Template Sheet).

## The Supplier shall not start work on delivering any Project until the appropriate Draft Project Sheet is agreed in accordance with the Change Control Procedure.

# Project Sheet Contents

## The Supplier shall ensure that each Draft Project Sheet and Project Sheet shall include:

### all Project Template Sheet sections fully completed with the following sections including at a minimum;

### Section 6. Project:

#### an overview commentary;

#### high level delivery approach;

#### alignment to the appropriate GRIP stages;

#### Project RACI; and

#### key risks and mitigations;

### Section 9. Deliverables:

#### the Acceptance Criteria attached to each Deliverable; and

### Section 14. Charges and Milestones

#### Project Plan including Milestones and any payment amounts attached to satisfaction of the Milestone; and

#### the Acceptance Criteria attached to each Milestone.

# Project Plan

## The Supplier shall produce a service-based plan to support control and delivery that will have the appropriate phases per Paragraph 5 and align to the Netlink Star’s GRIP stages as agreed with Netlink Star to be relevant to the Project (“**Project Plan**”).

## The Supplier shall supply to Netlink Star the following as a minimum during the duration of the particular Project.

|  |  |  |  |
| --- | --- | --- | --- |
| **GRIP** | **Name** | **Stage Aim** | **Main Output** |
| 1 | Output Definition | Defines the output for the project | Definition of requirements, the problem or opportunity through stakeholder consultation |
| 2 | Pre-feasibility | Defines the scope of investment. Confirm that the outputs can be economically delivered and are aligned with organisation strategy. | Identifying solutions, in response to the requirements |
| 3 | Option Selection | Develops options. Assesses and select the most appropriate option that economically delivers the stakeholder requirements. | Single option determined and stakeholder approval to option approved through Approval in Principle (AIP). |
| 4 | Single Option Development | Initiation of the development of the chosen single option. | Outline Design |
| 5 | Detailed Design | Produces a complete, robust engineering design that underpins definitive cost/time/resource and risk estimates | Full design to which the project will be built |
| 6 | Construction Testing & Commission | Delivery to the specification and testing to confirm operation in accordance with design | Project built, tested and commissioned into use |
| 7 | Scheme Handback | Transfer asset responsibility from the project team to the operator and maintainer | Project handed over to maintainer or operator |
| 8 | Project Close Out | Closeout in an orderly manner | Project formally closed out and project support systems formally closed. |

# Project Phases

## The following phases will be included in the project plan in addition to alignment with the GRIP Stages.

## **Feasibility Phase**

### The Supplier shall ensure that all Projects shall have a period for evaluating feasibility (“**Feasibility Phase**”) with defined and agreed (with Netlink Star) objectives, deliverables and Acceptance Criteria.

### The Supplier shall validate all planning assumptions in the Feasibility Phase before proceeding with Project delivery.

### The Supplier shall ensure that all objectives and Project Deliverables identified for the Feasibility Phase have been met or delivered (or exceptions are noted and agreed by both Parties). Such exceptions shall be summarised in an End of Phase Report.

## **Output Definition**

### If necessary, the Supplier shall include an Output Definition Phase to refine the Project Template Sheet into a Statement of Detailed Requirements. If required for the phase the Parties shall define and agree objectives, Project Deliverables and Acceptance Criteria.

### The Supplier shall ensure that all objectives and Project Deliverables identified for the Output Definition Phase have been met or delivered (or exceptions are noted and agreed by both Parties). Such exceptions shall be summarised in an End of Phase Report.

### The Supplier may merge the Output Definition Phase with the Feasibility Phase.

## **Design and Detailed Design Phase**

### The Supplier shall conduct a Design exercise for each Project in accordance with Netlink Star’s Design standards and with defined and agreed objectives, Project Deliverables and Acceptance Criteria.

### The Supplier shall ensure that all objectives and Project Deliverables identified for the Design Phase have been met or delivered (or exceptions are noted and agreed by both Parties). Such exceptions shall be summarised in an End of Phase Report.

### The Supplier shall not commence the Build Phase until the Design has been accepted by Netlink Star’s TDA in accordance with Schedule 8.1 (Governance).

## **Build Phase**

### The Supplier shall build the Technical Solution for the Project in accordance with the approved design and with defined and agreed objectives, Project Deliverables and Acceptance Criteria.

### The Supplier shall ensure that all objectives and Project Deliverables identified for the Build Phase have been met or delivered (or exceptions are noted and agreed). Such exceptions shall be summarised in an End of Phase Report.

## **Test Phase**

### The Supplier shall conduct a Test of all Deliverables created or modified during the Build Phase with defined and agreed objectives and Project Deliverables and Acceptance Criteria.

### The Supplier shall ensure that all objectives and Project Deliverables identified for the Test Phase have been met or delivered (or exceptions are noted and agreed by both Parties). Such exceptions shall be summarised in an End of Phase Report.

### The Test Phase should include some or all of the following as appropriate:

#### component Test;

#### integration Test;

#### system Test;

#### system integration Test; and

#### Non-functional Tests including, as required, Infrastructure Stress Testing.

### The Supplier shall conduct all Testing and acceptance in line with the requirements of Schedule 6.3 (Testing Procedures)**.**

### The Supplier shall allow time for rework and re-Test.

### If required the Supplier may run the Design Phase, Build Phase and Test Phase in parallel if:

#### Project Deliverables are produced to widely differing timescales;

#### developing Project Deliverables incrementally is more suited to the Project; or

#### the Parties agree in the Draft Project Sheet.

## **Migration Phase**

### The Supplier shall migrate all applications, data and any Services associated with those applications, as required by the Project Plan.

### The Supplier shall plan for the need to restore the environments to a pre-migrated condition, to migrate incrementally or to migrate elements more than once as agreed in Project Sheet for the Project.

### The Supplier shall demonstrate the success of migration to Netlink Star ahead of transition of Service.

### Except as agreed by the Parties in writing in the Project Sheet there shall be no unplanned downtime.

## **Acceptance Phase**

### The Supplier shall ensure that all Projects shall have an Acceptance Phase.

### The Supplier shall allow time for Netlink Star to carry out User Acceptance Testing and other acceptance testing required in accordance with Schedule 6.3 (Testing Procedures).

### The Supplier shall allow time in their plans for rework and re-acceptance.

### The Supplier shall support Netlink Star in Netlink Star’s User Acceptance Testing.

### The Supplier shall carry out operational acceptance testing unless it is carried out at another phase.

## **Deploy Phase**

### The Supplier shall (via Release Management) transfer a created or modified Service for the Transition Phase once it has successfully passed the Acceptance Phase.

## **Transition Phase**

### No Service or modification to a Service may go live without passing operational acceptance testing except at Netlink Star’s sole discretion. In the event that Netlink Star exercises this discretion in writing the Supplier may reasonably exclude applicable Service Levels from:

#### the calculation of Service Credits; and

#### the triggering of Service Failure,

until such time as the relevant tests are passed.

### The Supplier shall support Netlink Star’s need to prepare Users for transition and to support Users through transition.

### The Supplier may merge or re-order the Migration Phase, Acceptance Phase and Transition Phase according to the needs of the Project.

## **Operate Phase**

### The Supplier shall deliver the Services (including the Operate Service) with the created or modified Services once they have successfully passed the Transition Phase.

## **Project Close Out**

### The Supplier shall ensure that all Projects shall have a Project Closure Phase.

### The Supplier shall in the Project Close out phase conduct a Lessons Learned Review and share the results with Netlink Star.

## **General Project Plan Requirements**

### The Supplier shall ensure that each Project Plan shall include a Project Initiation Document (Output Definition) including:

#### Project background;

#### Project definition;

#### Project business case;

#### Project Plan (that is product based, and includes project approach; identified high-level milestones; identified contingency; RACI matrix; resource schedule; assumptions made);

#### Project Quality Plan;

#### Risks;

#### Contingency Plan;

#### Project organisation;

#### Project controls; and

#### Exception process.

### The Supplier shall identify for each Project:

#### the accommodation and facilities they would require at each location for those resources identified in the Project Plan (including the area required expressed in square metres);

#### the equipment and associated IT services that they would require at each of location; and

#### whether the facilities are required on a full-time or part-time basis.

**SCHEDULE 6.3**

**TESTING PROCEDURES**

1. **INTRODUCTION**
   1. This Schedule covers the principles of testing and acceptance and outlines the procedures that the Supplier and Netlink Star shall adopt in the performance of the Services and delivery of the Deliverables.
2. **GENERAL PRINCIPLES**
   1. The Testing and Acceptance Procedures shall apply to the following:
      1. a new or revised Service introduced under the Change Control Procedures;
      2. any Significant Change as detailed inSchedule 8.2 (Change Control Procedure);
      3. any Deliverable delivered pursuant to this Agreement;
      4. any Project initiated under the Agreement; and
      5. any other Change, Service, Deliverable, Project or part thereof that the Parties agree shall be subject to Testing and Acceptance Procedures,

each a “**Testable Element**”.

* 1. Unless stated otherwise by Netlink Star, any Minor Change as detailed in Schedule 8.2 (Change Control Procedure), shall not be subject to the Testing and Acceptance Procedures.

1. **TESTS**
   1. The Supplier shall develop and submit a Test Strategy for all Testable Elements.
   2. The Test Strategy shall include:
      1. an overview of how Testing will be conducted in relation to the Project Plan, any agreed timetables and in particular the Test Stage;
      2. the process to be used to capture and record Test results and the categorisation of Defects;
      3. the method for mapping the expected Test results to the Test Criteria;
      4. the procedure to be followed should a Testable Element fail to satisfy the Test Criteria or to produce unexpected results, including a procedure for the resolution of Defects;
      5. the procedure to be followed to sign off each Test;
      6. the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports and the Test Issue Management Log, and a sample plan to resolve Defects;
      7. the names and contact details of the Supplier's and Netlink Star’s Test representatives;
      8. a high level identification of the resources required for Testing, including facilities, tools, existing scripts, infrastructure, personnel and Netlink Star and/or third party involvement (including Other Suppliers) in the conduct of the Tests;
      9. the technical environments required to support the Tests; and
      10. the procedure for managing the configuration of those Test environments.
2. **TEST PLAN**
   1. For each Testable Element, the Supplier shall develop a test plan for the approval of Netlink Star’s Test Manager, or other nominated person, no later than 15 Working Days (or such other period as the parties may agree in the Test Strategy or otherwise) prior to the start date for the relevant Testing as agreed between the Parties (“**Test Plan**”).
   2. Netlink Star shall aim to respond within five (5) Working Days but in any case shall respond within ten (10) Working Days of receipt of a Test Plan being provided. Netlink Star shall, acting reasonably, either agree to the Test Plan or clearly set out in writing Netlink Star’s objections and comments. The Supplier shall, within five (5) Working Days, revise the Test Plan to take account of any reasonable objections and provide the revised Test Plan to Netlink Star for its approval. Netlink Star shall respond within three (3) Working Days of receipt of the revised Test Plan either agreeing to the revised Test Plan or clearly setting out in writing its objections in which case the matter will be escalated according to Schedule 8.1 (Governance).
   3. Each Test Plan shall include as a minimum:
      1. the relevant Test definition and the purpose of the Test, the Testable Element(s) to which it relates, the requirements being tested and, for each Test, the specific Test Criteria to be met, which in the case of certain Testable Elements may be a scope of work or requirements specification which the Testable Element will be tested against;
      2. a detailed procedure for the Tests to be carried out, including:
         1. the timetable for the Tests including start and end dates;
         2. the applicable industry-standard Testing mechanism to be applied;
         3. the applicable test automation tools from the list of approved test tools agreed with Netlink Star;
         4. the mechanism for ensuring the quality, completeness and relevance of the Tests;
         5. the format and an example of Test progress reports;
         6. the process with which Netlink Star will review Defects and progress on a timely basis;
         7. the Test schedule;
         8. the re-Test procedure, the timetable and the resources which would be required for re-Testing;
         9. the decision making process for escalation from a re-Test situation to specific remedial action to resolve the Defect;
         10. identification of all resources required from the Supplier, Netlink Star and any third/other parties; and
         11. as required, operational acceptance tests to ensure no adverse impact on live service.
   4. Netlink Star at its sole discretion may require one or more Netlink Star Representatives to attend any or all of the Tests within the Test Plan to assure that the agreed Test Plan is being adhered to and for general observation.
   5. For the avoidance of doubt, the Netlink Star Representatives shall not be involved in the execution of the Tests unless agreed by both Parties.
   6. Netlink Star shall not unreasonably withhold or delay its approval of the Test Plans and the Supplier shall implement any reasonable requirements of Netlink Star in those Test Plans.
3. **DEFECTS**
   1. Where a Test is carried out that produces an outcome not in line with the Acceptance Criteria, a Defect shall be raised, except where Netlink Star agrees that such an outcome was an artefact of the Test or the data. On such an occurrence, Netlink Star may request that the Test be repeated in accordance with the procedures specified in the Test Plan.
   2. Defects shall be classified according to the following scale:

|  |  |  |
| --- | --- | --- |
| **Severity** | **Type** | **Description** |
| 1 | Critical | The defect results in the failure of a business-critical part of the Testable Element and there is no workaround. Reviews/testing cannot proceed and, in a live environment, this defect would have a critical impact on the operation of the business. |
| 2 | High | Either the defect results in the failure of a business critical part of the Testable Element and there is no practical workaround; or a significant portion of the Testable Element is not operational and, in a live environment; this defect would have a critical impact on the operation of the business. |
| 3 | Medium | Either a defect in a business-critical Testable Element with minor consequences, or a significant defect in a non-critical part of the Testable Element. The defect does not result in failure, but causes the Testable Element to perform sub-optimally, behave unpredictably, or the defect impairs the solution’s usability. |
| 4 | Low | This is a defect that has minimal impact to the Testable Element. The defect does not cause a failure and does not impair usability. |

**Table 1 Defect Classifications**

* 1. The Supplier shall be able to set the classification of all Defects in accordance with the agreed definitions in Table 1. In the event that Netlink Star believes that any classification may be incorrect, Netlink Star may reasonably request to the Supplier that this be modified. In the event that an agreement is not reached between the Parties in relation to modifications suggested by the Supplier, the Parties shall refer this to the applicable governance body for resolution as specified in Schedule 8.1 (Governance).
  2. The Supplier shall suggest for Netlink Star’s approval (not to be unreasonably withheld or delayed) the priority in which any identified Defects shall be addressed.

1. **TEST REPORTING**
   1. The Supplier shall, as soon as is reasonably practical, and no later than five (5) Working Days after the completion of a Test, make available to Netlink Star’s Test Manager, or nominated representative, a Test Report.
   2. The Test Report shall contain:
      1. an overview of the Testing conducted;
      2. identification of the relevant Test Criteria that have been satisfied;
      3. identification of the relevant Test Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;
      4. the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed; and
      5. any remedial actions or re-Tests required for those Test Criteria that have not been satisfied, according to the procedures specified in the Test Plan.
2. **ACCEPTANCE**
   1. Acceptance Criteria for Acceptance of a Testable Element will be agreed and documented in the relevant Project Sheet or otherwise agreed in writing by the Parties.
   2. A Testable Element shall not be presented to Netlink Star for Acceptance until all Tests that are associated with that product have been completed and met their Test Criteria.
   3. Netlink Star shall designate the result of the Testing of the Testable Element as either:
      1. Fully Accepted, by which all the Acceptance Criteria have been successfully met; or
      2. Partially Accepted, by which some, but not all of the Acceptance Criteria have not been met; or
      3. Rejected, by which none of the Acceptance Criteria have been met,

as soon as reasonably practicable and in accordance with any timeline and process set out in the applicable Project Sheet. If Netlink Star has not designated the result according to such timelines, the Supplier shall issue Netlink Star with a written reminder to designate the result and the issue shall be raised and discussed by the Parties at the next Project Review Meeting and escalated appropriately. For the avoidance of doubt failure to comply with such timelines shall not in any event constitute deemed acceptance by Netlink Star.

* 1. Where the Testable Element has been designated as Fully Accepted, Netlink Star shall provide the Supplier with an Acceptance Certificate as soon as is reasonably practicable, and no later than ten (10) Working Days after the completion of an Acceptance Test.
  2. Where the Testable Element has been designated by Netlink Star as Partially Accepted, Netlink Star, acting reasonably, may either:
     1. issue an Acceptance Certificate, conditional on the completion of remedial work; or
     2. require that remedial work be carried out prior to issuing an Acceptance Certificate.
  3. Where the Testable Element has been rejected, the Supplier shall specify the remedial work that shall be conducted by the Supplier and gain agreement from Netlink Star, before re-submission for Testing.
  4. Any remedial work performed by the Supplier for a Partially Accepted or Rejected Testable Element shall be conducted at the Supplier’s cost.

1. **MILESTONE ACCEPTANCE**
   1. For each Milestone, Netlink Star shall issue a Milestone Acceptance Certificate when all Acceptance Certificates for Deliverables (or other Testable Elements) associated with that Milestone have been issued.
   2. Netlink Star shall use all reasonable endeavours to issue the Milestone Acceptance Certificate within five (5) Working Days of the final Product Acceptance Certificate for that Milestone.
   3. The Milestone Acceptance Certificate shall be used for the purpose of invoicing Project Charges in accordance with Schedule 7.1 (Charges and Invoicing).

**ANNEX 6.3A**

Product Acceptance Certificate

To: [Supplier]

FROM: [Customer]

[Date]

Dear Madam/Sir,

PRODUCT ACCEPTANCE CERTIFICATE

Project Product: [insert description of Project Product]

We refer to the agreement ("Agreement") relating to the provision of the [ ] Services between the [Customer] ("Customer") and “ ” ("Supplier") dated [ ].

The definitions for terms capitalised in this certificate are set out in **Schedule 1** (Definitions) to the Agreement.

[We confirm that the Project Products listed above have been tested successfully in accordance with the Acceptance Criteria relevant to those Products.]

OR

[This Product Acceptance Certificate is issued on the condition that any Defects are remedied in accordance with the remedial plan attached to this certificate.]\*

\*delete as appropriate

Yours faithfully

[Name]

[Programme Director or delegate]

acting on behalf of [Customer]

**ANNEX 6.3B**

Milestone Acceptance Certificate

To: [Supplier]

FROM: [Customer]

[Date]

Dear Madam/Sir,

MILESTONE ACCEPTANCE CERTIFICATE

Milestone: [insert description of Milestone]

We refer to the agreement ("Agreement") relating to the provision of the [ ] Services between the [Customer] ("Customer") and “ ” ("Supplier") dated [ ].

The definitions for terms capitalised in this certificate are set out in **Schedule 1** (Definitions) to the Agreement.

We confirm that all the Products relating to Milestone Number [ ] have been issued with a Product Acceptance Certificate. You may now issue an invoice in respect of the Project Charges due which are payable in accordance with **Schedule 7.1**.

Yours faithfully

[Name]

[Chair of the Project Management Team or any Customer member of the associated project Steering Committee]

acting on behalf of [Customer]

**SCHEDULE 6.4**

**INITIAL TRANSITION PROJECT**

**IN STANDALONE DOCUMENT**

**SCHEDULE 6.5**

**MIGRATION PROJECT**

**IN STANDALONE DOCUMENT**

SCHEDULE 7.1

**CHARGES AND INVOICING**

1. **GENERAL**
   1. The Supplier shall ensure that all Charges shall be quoted in GBP.
2. **CHARGES MUST BE COMPREHENSIVE**
   1. The Supplier shall ensure that the charges shall be based on the Supplier and its Sub-contractors as detailed in Schedule 4.3 (Notified Key Sub-contractors) providing all of the Services and shall include:
      1. all associated costs that the Supplier may reasonably incur in entering into the Agreement and performing the Services (including all transition, start-up and implementation costs); and
      2. all expenses that the Supplier reasonably expects to incur in performing the Services during the Term (including travel to supplier premises, travel to data centres, lodging, document reproduction, postage, express post, shipping costs and long-distance telephone charges).
   2. No additional expenses incurred by the Supplier in providing the Services will be separately reimbursable by Netlink Star except as expressly agreed between the Parties in this Agreement.
3. **BASIC PRICING PARAMETERS**
   1. The Charges for the Term are as determined by the Commercial Model.
4. **NO DOUBLE RECOVERY OF COSTS**
   1. The Supplier shall apply the pricing methodology fairly throughout the Term so as not to recover the Supplier’s fixed costs and overheads more than once.
5. **VOLUME ADJUSTMENTS**
   1. The Supplier agrees that Netlink Star shall be entitled, during a Contract Year, to amend the total number of Service Components and the Charges shall vary according to the unit charges by Service Component as set out in Schedule 7.4 (Product and Service Catalogue).
   2. Notwithstanding any other term in this Agreement or any completed Project Sheet, should Netlink Star decrease its use of the Services as set out in this Paragraph 5, no compensation payments or other amounts shall be payable to the Supplier by Netlink Star as a consequence of Netlink Star decreasing its use of the Services.
6. **CHARGING STRUCTURE**
   1. **Service Baselines**
   2. The Supplier shall supply a unit cost for each Service provided to Netlink Star in the Financial Model and the Charges for the Products and Services shall be calculated in accordance with Schedule 7.4 (Product and Service Catalogue) strictly based on Netlink Star’s actual daily consumption with Products and Services being able to be stood up and down with immediate effect on the charging.
   3. The Financial Model sets out the Services and defines the related individual Service Components.
   4. The Charges payable for the Products and Services shall be subject to a volume discount as set out in Annex 7.1A.
   5. **Base Charge.** The “**Base Charge**” means the total sum of the Base Overhead Charge, the Base Service Charge and the Base Catalogue Charge.
   6. **Base Overhead Charge**
      1. The Supplier shall recover the fixed costs for delivering its core service management capability through a monthly unit Charge set out in Schedule 7.4 (the “**Base Overhead Charge**”).
      2. The Supplier shall ensure that the Base Overhead Charge includes the costs of:
         1. administering the Product and Service Catalogue;
         2. providing contract management, contract project office, reporting and governance; and
         3. administering and generating Change Control Analysis in accordance with the Change Control Procedure in Schedule 8.2 (Change Control Procedure).
   7. **Base Service Charge.** The Supplier shall recover the fixed costs for delivering the Operational Service through a monthly unit Charge as described in Annex 7.4A (the “**Base Service Charge**”).
   8. **Base Catalogue Charge.** The Base Catalogue Charge is the charge for the services (Service Requests) provided to Netlink Star as described in Annex 7.4B.
   9. **Project Charges and Indexation**
      1. Netlink Star may, from time to time, require the Supplier to provide personnel to support the delivery of a specified Project. To support this, the Supplier shall provide, via the Product and Service Catalogue, such personnel at the Supplier’s Rate Card prices
      2. For fixed price Projects, the Project Charges shall be associated with defined Milestones within the applicable completed Project Sheet and in any future Projects each in accordance with Schedule 6.1 (Project Template Sheet).
      3. Payment of Project Charges for fixed price Projects shall be dependent on:
         1. the acceptance of the Payment Milestone by Netlink Star, in accordance with the agreed Acceptance Criteria specified in the completed Project Sheet; and
         2. the production of a Milestone Acceptance Certificate for that Payment Milestone.
      4. For time and material Projects, the invoicing shall be done on a monthly basis at the end of each calendar month based on actual effort utilised during the month.
      5. For time and material Projects, the Supplier shall invoice the Project Charges on a pro rata basis (to half days and full days, full days being eight (8) hour days) against the Rate Card Prices.
      6. Charges, Payment Milestones and Acceptance Criteria for the Initial Transition Project are set out in Schedule 6.4 (Initial Transition Project).
      7. Charges, Payment Milestones and Acceptance Criteria for the Migration Project are set out in Schedule 6.5 (Migration Project).
   10. **Catalogue Charges**
       1. The Product and Service Catalogue shall be the sole method of calling off or procuring simple fixed price service or products under the Agreement.
       2. The Supplier shall recover the costs of providing Catalogue Items through Catalogue Charges.
       3. The pricing for Catalogue Items shall be based on the effort needed to deliver them in accordance with the Rate Card Prices. The Parties will agree pricing for Catalogue Items prior adding the Catalogue Item to the Product and Service Catalogue in accordance with Schedule 7.4 (Product and Service Catalogue).
       4. The Catalogue Charges shall comprise the Base Catalogue Charges and the Variable Catalogue Charges.
       5. The Supplier shall provide Catalogue Items within the volumes applicable to the Base Catalogue Charge as specified in Schedule 7.4 (Product and Service Catalogue) for no additional cost beyond the Base Catalogue Charge.
       6. The Supplier shall provide additional Catalogue Items above the volumes applicable to the Base Catalogue Charges at additional charge (the “**Variable Catalogue Charge**”) as specified in Schedule 7.4 (Product and Service Catalogue)
       7. The Supplier shall invoice the Variable Catalogue Charge monthly in arrears based on the actual usage beyond that included in the Base Catalogue Charge in that period.
7. **SUPPLIER INVOICING**
   1. This part of Schedule 7.1 sets out the method by which the Supplier shall raise invoices to Netlink Star for payment of the Charges, together with the requirements which apply to such invoices and the payment terms thereof.
   2. The Supplier shall prepare and provide to Netlink Star for approval a draft template invoice for the Charges within ten (10) Working Days of the Effective Date which shall include, as a minimum, the details set out in paragraph 7.4 together with such other information as Netlink Star may reasonably require to assess whether the Charges that will be detailed therein are properly payable.  If the template invoice is not approved by Netlink Star then the Supplier shall make such amendments as may be reasonably required by Netlink Star. If Netlink Star uses an e-invoicing system then the Supplier shall instead comply with the requirements of that system.
   3. The Supplier shall submit invoices monthly in arrears.
   4. The Supplier shall ensure that each invoice is submitted in the correct format for Netlink Star’s e-invoicing system, or that it contains the following information:
      1. the date of the invoice;
      2. a unique invoice number;
      3. the month to which the relevant monthly Operate Charges and Project Charge(s) relate;
      4. the correct reference for this Agreement;
      5. the reference number of the purchase order to which it relates (if any);
      6. the dates between which the Services subject of each of the Charges detailed on the invoice were performed;
      7. a description of the Services to which the invoice relates;
      8. the pricing mechanism used to calculate the Charges (such as fixed price, time and materials etc);
      9. any payments due in respect of Achievement of a Milestone, including the Milestone Achievement Certificate number for each relevant Milestone;
      10. the total Charges gross and net of any applicable deductions and, separately, the amount of any reimbursable expenses properly chargeable to Netlink Star under the terms of this Agreement, and, separately, any VAT or other sales tax payable in respect of each of the same;
      11. all Product and Service Catalogue Charges;
      12. details of any Service Credits or Delay Payments or similar deductions that shall apply to the Charges detailed on the invoice;
      13. reference to any reports required by Netlink Star in respect of the Services to which the Charges detailed on the invoice relate (or in the case of reports issued by the Supplier for validation by Netlink Star, then to any such reports as are validated by Netlink Star in respect of the Services);
      14. a contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries; and
      15. the banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number).
   5. The Supplier shall be entitled to invoice Netlink Star in respect of Services in accordance with the requirements in Paragraph 7. Prior to submitting any invoice the Supplier shall first submit to Netlink Star a draft invoice setting out the Charges payable.  The Parties shall endeavour to agree the draft invoice within five (5) Working Days of its receipt by Netlink Star, following which the Supplier shall be entitled to submit its invoice.
   6. Each invoice shall at all times be accompanied by supporting documentation in accordance with Schedule 2.2 (Service Levels) Paragraph 7 (Performance Reporting).  Any assessment by Netlink Star as to what constitutes supporting documentation shall not be conclusive and the Supplier undertakes to provide to Netlink Star any other documentation reasonably required by Netlink Star from time to time to substantiate an invoice.
   7. The Supplier shall submit all invoices and supporting documentation to both:
      1. by post, Netlink Star, Accounts Payable, P.O. Box 4145, Manchester M60 7WZ; and
      2. by email, [invoices@net.co.uk](mailto:invoices@net.co.uk),

with a copy (again including any supporting documentation) to such other person and at such place as Netlink Star may notify to the Supplier from time to time.

* 1. All Supplier invoices shall be expressed in sterling or such other currency as shall be permitted by Netlink Star in writing.
  2. Netlink Star shall regard an invoice as valid only if it complies with the provisions of this Paragraph 7.  Where any invoice does not conform to Netlink Star's requirements set out in this Paragraph 7, Netlink Star shall promptly return the disputed invoice to the Supplier and the Supplier shall promptly issue a replacement invoice which shall comply with such requirements.
  3. The Supplier acknowledges that efficient invoicing is of significant importance to Netlink Star and the Supplier shall raise invoices within 120 days of the end of the relevant Invoicing Period and in accordance with this Schedule.
  4. In the event that invoices are not raised in accordance with the timescales detailed in Paragraph 7.10 the Supplier shall be deemed to have waived its rights to claim the relevant Charges and Netlink Star shall not be liable for such payment.

1. **PAYMENT TERMS**
   1. Subject to the relevant provisions of this Schedule, Netlink Star shall make payment to the Supplier within 28 days of verifying that the invoice is valid and undisputed by Netlink Star at its nominated address for invoices.
   2. Unless the Parties agree otherwise in writing, all Supplier invoices shall be paid in sterling by electronic transfer of funds to the bank account that the Supplier has specified on its invoice.
   3. The Supplier shall, if agreed subject to the Change Control Procedures in accordance with Schedule 8.2(Change Control Procedure), integrate with an e-invoicing capability.
2. **EXIT ASSISTANCE** 
   1. The Supplier is required to provide exit assistance as specified in Schedule 8.5(Exit Management) that encompasses the activities associated with the transition of the Services to Netlink Star or a nominated Replacement Supplier on expiry of the Agreement in accordance with the Exit Plan.
   2. All Charges for such exit assistance shall be charged on a time and materials’ basis in accordance with the Rate Card.
3. **TERMINATION FOR CONVENIENCE CHARGES**
   1. In the event that Netlink Star terminates this Agreement for convenience pursuant to clause 36.1.1, Netlink Star shall pay to the Supplier the Termination Payment. The value of the Termination Payment shall be the figure set out in Table 1 below (all figures in KGBP) in the cell relating to the month in which termination is effective.

|  |  |  |  |
| --- | --- | --- | --- |
| ***k£*** | **2022** | **2023** | **2024** |
| Jan | 375 | 185 | 86 |
| Feb | 355 | 176 | 78 |
| Mar | 339 | 167 | 70 |
| Apr | 321 | 159 | 62 |
| May | 301 | 149 | 54 |
| Jun | 282 | 141 | 46 |
| Jul | 260 | 133 | 39 |
| Aug | 238 | 125 | 31 |
| Sep | 222 | 117 | 23 |
| Oct | 212 | 109 | 15 |
| Nov | 202 | 101 | 8 |
| Dec | 193 | 93 |  |

**Table 1: Termination Payment**

**ANNEX 7.1A**

Discount bands based on man-day utilisation. These discounts will be applied to the Rate Card

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Minimum number of payable Total Days** | **Maximum number of payable Total Days** | **% Discount on Day Rate** |
| **Band 1** | 0 | 1300 | 0% |
| **Band 2** | 1301 | 3000 | 2% |
| **Band 3** | 3001+ |  | 3% |

SCHEDULE 7.2

**SERVICE CREDITS**

# Principles

## The Charges for the Services shall be subject to the Service Credit regime described in this Schedule.

## The objectives of the Service Levels and the Service Credit regime are to:

### ensure that the Services are of a consistently high quality and meet the business requirements of Netlink Star;

### provide a mechanism whereby Netlink Star can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier’s failure to deliver the level of Service for which it has contracted to deliver; and

### provide an incentive for the Supplier to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

## Where the level of service falls below the Target Performance Level the Supplier shall conduct a root cause analysis as to the reasons for failing to meet the Target Level and agree an action plan with Netlink Star. Where the root cause of the failure to meet the Target Level is attributable to the Supplier, the Supplier shall meet all costs in carrying out any remedial action required to ensure the Service Level meets or exceeds its Target Performance Level for the remainder of the Term.

## **Service Failure**

### “**Service Failure**” means a Service falling below its Minimum Level as set out in Schedule 2.2 (Service Levels) or in the case of a Binary Service Level that has no Minimum Level set, that it fails the applicable Target Performance Level.

### In the event of a Service Failure, the Supplier shall be obliged to produce a plan setting out the remedial action required to ensure the Service Level meets or exceeds its Target Level (“**Remedial Plan**”) and provide the Remedial Plan to Netlink Star within 30 days of such failure occurring. Supplier shall amend the Remedial Plan as reasonably agreed with Netlink Star. The Remedial Plan will detail the measures to be taken by the Supplier to enable the Service Level to meet its Target Level by no later than the date set out in the Remedial Plan. Netlink Star shall bear no costs for the implementation of the Remedial Plan.

### In the event that any of the Service Levels fail to meet the Minimum Level in any Invoicing Period the Supplier shall generate the proportion of the relevant groups (listed in Paragraph 3.2) as a Service Credit.

## The payment of Service Credits by the Supplier shall be reflective of the performance of the Supplier in delivering the Services against the Service Levels.

## The provisions of this Schedule .2are without prejudice to Netlink Star’s other rights and remedies.

# Service Credits effective date

## Service Credits shall begin to accrue from the commencement of the Operate Service.

# Base Charge at Risk and apportionment

## This Service Credit regime shall operate against a specified percentage of the total Catalogue Charge in the Invoicing Period (the “**At-risk Value**”) which shall be set at 10%.

## The At-risk Value shall be broken down into groups as follows:

### The Availability Credit Group shall equal **40%** of the At-risk Value;

### The Reaction Time Credit Group shall equal **30%** of the At-risk Value;

### The Business Continuity Credit Group shall equal **20%** of the At-risk Value; and

### The Service Quality Credit Group shall equal **10%** of the At-risk Value.

### Within each Credit Group the service credits are apportioned to the individual Service Levels as described in Table A below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Credit Group | Service Level Reference | Service Level Name | Apportionment within Credit Group | Apportionment of At-Risk Value |
| Availability | A-1a | Service Component Availability | 25% | 10% |
| A-1b | Service Component Availability Adherence | 25% | 10% |
| A-2 | Service Component non-Availability | 25% | 10% |
| A-3 | Maximum Service Outage Duration | 25% | 10% |
| Business Continuity | BC-1 | Business Continuity | 0% | 0% |
| BC-2 | Backup Success | 50% | 10% |
| BC-3 | Backup Restoration Success | 50% | 10% |
| Reaction Time | R-1 | Response Time for Priority 1 Incidents | 8% | 2.4% |
| R-2 | Response Time for Priority 2 Incidents | 8% | 2.4% |
| R-3 | Response Time for Priority 3 Incidents | 1% | 0.3% |
| R-4 | Response Time for Priority 4 Incidents | 1% | 0.3% |
| R-5 | Resolution Time for Priority 1 Incidents | 25% | 7.5% |
| R-6 | Resolution Time for Priority 2 Incidents | 25% | 7.5% |
| R-7 | Resolution Time for Priority 3 Incidents | 5% | 1.5% |
| R-8 | Resolution Time for Priority 4 Incidents | 5% | 1.5% |
| R-9 | Service catalogue fulfilment 1 (On time delivery) | 12% | 3.6% |
| R-10 | Acknowledgement time | 10% | 3% |
| Service Quality | Q-1 | Customer input to resolve Priority 1 and Priority 2 incidents | 33.3% | 3.33% |
| Q-2 | Supplier Staff Churn | 33.3% | 3.33% |
| Q3 | Contract Schedule 2.1 Non-compliance | 33.3% | 3.33% |

### Table A: Service level at-risk apportionment

# Netlink Star Reviews

## Notwithstanding Clause 8.7 of the terms and conditions Netlink Star reserves the right to (i) review the Service Levels and Service Credit apportionment and (ii) amend the Service Credit apportionment quarterly at the Service Management Review Meeting and inform the Supplier of its decision.

# Availability Credit Group

## The Availability Credit Group consists of five (5) Service Levels as set out in Schedule 2.2 (Service Levels):

### A-1a Service Component Availability;

### A-1b Service Component Availability adherence;

### A-2 Service Component non-Availability;

### A-3a Maximum Service Outage Duration; and

### A-3b Maximum Service Outage Duration.

## In any Invoicing Period, the applicable Service Credit is the sum of the Availability Credit Group Service Levels that constituted a Service Failure multiplied by one fifth (i.e 20%) of the Availability Credit Group. For Example:

* A-1a Service Component Availability achieved;
* A-1b Service Component Availability adherence failed;
* A-2 Service Component non-Availability achieved; and
* A-3 Maximum Service Outage duration failed;

Two Availability Credit Group Service Levels have failed, therefore the Service Credit is calculated as 2 X 25% = 50% of the Availability Credit Group.

# Reaction Time Credit Group

## The Reaction Time Group consists of ten (10) Service Levels as set out in Schedule 2.2 (Service Levels*)*:

### 4 x Response Time (R-1 to R-4);

### 4 x Resolution Time (R-5 to R-8);

### 1 x Service Catalogue Fulfilment (R-9); and

### 1 x Acknowledgement Time (R-10).

## In any Invoicing Period, the Reaction Time Credit Group shall be distributed amongst the following Service Levels in the following proportions:

### For Priority 1 & 2 Response Time for Incidents (R-1 and R-2): **16%** of the Reaction Time Credit Group;

### For Priority 3 & 4 Response Time for Incidents (R-3 and R-4): **2%** of the Reaction Time Credit Group;

### For Priority 1 & 2 Resolution Time for Incidents (R-5 and R-6): **50%** of the Reaction Time Credit Group;

### For Priority 3 & 4 Resolution Time for Incidents (R-7 and R-9): **10%** of the Reaction Time Credit Group;

### For Service Catalogue Fulfilment for Service Requests (R-9): **12%** of the Reaction Time Credit Group; and

### For Acknowledgement Time for Incidents (R-10): **10%** of the Reaction Time Credit Group.

# Business Continuity Credit Group

## The Business Continuity Credit Group consists of three (3) Service Levels as set out in Schedule 2.2 (Service Levels*)*:

### BC-1 Business Continuity;

### BC-2 Backup Success; and

### BC-3 Backup Restoration Success.

## In any Invoicing Period, the Business Continuity Credit Group shall be distributed amongst the following Service Levels in the following proportions:

### BC-1 Business Continuity: 0% of the Business Continuity Credit Group;

### BC-2 Backup Success: 50% of the Business Continuity Credit Group; and

### BC-3 Backup Restoration Success: 50% of the Business Continuity Credit Group.

# Service Quality Credit Group

## The Service Quality Credit Group consists of three (3) Service Levels as set out in Schedule 2.2 (Service Levels*):*

### Q-1 Customer input to resolve Priority 1 and Priority 2 Incidents;

### Q-2 Supplier Churn; and

### Q-3 Contract Non-compliance.

## In any Invoicing Period, the Service Quality Credit Group is the sum of the Service Quality Credit Service Levels that did not constitute a Service Failure multiplied by 33.3%, with all three (3) Service Levels passing giving 100%.

# Calculation of the Service Credit

|  |  |  |  |
| --- | --- | --- | --- |
| **Service Credit Groups** | **Apportionment of At-risk Value** | **Total Service Credits (example)** | **Result**  **(example)** |
| Availability | 50% | all 4 Service Levels passed, 100% | 50% |
| Reaction Time | 30% | Proportion was 80% | 24% |
| Business Continuity | 20% | Proportion was 20% as BC-1 event occurred and failed | 4% |
| Quality | 10% | 2 out of the 3 Service Levels passed, 66.6% | 6.6% |
| **Total** | | | **84.6%** |

Table 1: Apportionment and example

## In the above example 15.4% of the At-risk Value is payable to Netlink Star, i.e. 15.4% of 10% of the Base Charge in that Invoicing Period.

# Binary and Continuous Service Levels

## **Binary Service Levels.** For a Service Level in this category, no Minimum Level applies. Performance meeting or exceeding the Target Level shall not incur any Service Credits. Where actual performance does not meet this Target Level, 100% of the At-Risk Value for that Service Level shall be designated as Service Credits.

## **Continuous Service Level.** For each Service Level that is a Continuous Service Level:

### where the Target Level is met or exceeded: (i) the Supplier shall not incur any Service Credits; and (ii) the Supplier shall indicate any RAG status for this Service Level as green for this reporting period;

### where the Target Level is not met but the Minimum Level is met: (i) the Supplier shall not incur any Service Credits; (ii) the Supplier shall undertake a root cause analysis of the failure to achieve Target Level and prepare a Remedial Plan; and (iii) the Supplier shall indicate any RAG status for this Service Level as amber for this reporting period;

### where the Minimum Level is not met: (i) a proportion of the At-Risk Value for that Service Level is designated as Service Credits, the proportion being determined according to where the achieved measure is in relation to the Minimum Level (0% of the At-Risk Value for the Service Level) and the Service Credit Boundary Level on a linear basis; (ii) the Supplier shall undertake a root cause analysis of the failure to achieve Target Level and prepare a Remedial Plan; and (iii) the Supplier shall indicate any RAG status for this Service Level as red for this reporting period;

#### As an example, a hypothetical Service Level has a Minimum Level set at 70% and a Service Credit Boundary Level set at 30%. If the achieved performance level is 60%, it is positioned is three quarters of the way between 70% and 30% and therefore equivalent to 75% of the At-Risk Value for that Service Level. Therefore, the Service Credit is calculated as 25% of the At-Risk Value.

### where the Service Credit Boundary Level is not met: (i) 100% of the At-Risk Value for that Service Level is designated as Service Credits; (ii) the Supplier shall undertake a root cause analysis of the failure to achieve Target Level and prepare a Remedial Plan; and (iii) the Supplier shall indicate any RAG status for this Service Level as Black for this reporting period.

# Service Credit Cap

## The total Service Credits to be deducted from the Base Charge in any one (1) Invoicing Period shall be capped at the At-risk Value.

**SCHEDULE 7.3**

**BENCHMARKING**

# DEFINITIONS

## In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| **“Benchmarked Service”** | a Service that Netlink Star elects to include in aBenchmark Review under Paragraph 2.3; |
|  |  |
| **“Benchmark Report”** | the report produced by the Benchmarker following the Benchmark Review as further described in Paragraph 5; |
| **“Benchmark Review”** | a review of one (1) or more of the Services carried out in accordance with Paragraph 4 to determine whether those Services represent Good Value; |
| **“Benchmarker”** | the independent third party appointed under Paragraph 3.1; |
| **“Comparable Service”** | in relation to a Benchmarked Service, a service that is identical or materially similar to the Benchmarked Service (including in terms of scope, specification, volume and quality of performance); |
| **“Comparison Group”** | in relation to a Comparable Service, a sample group of organisations providing the Comparable Service identified by the Benchmarker under Paragraph 4.8 which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be (’n the Benchmarker's professional opinion) fair comparators with the Supplier or which, in the professional opinion of the Benchmarker, are best practice organisations and, where there are a reasonable number of such organisations, referencing only those organisations that are carrying on at least a significant part of their business within the United Kingdom; |
| **“Equivalent Services Data”** | in relation to a Comparable Service, data derived from an analysis of the Comparable Service provided by the Comparison Group as adjusted in accordance with Paragraphs 4.8(a) and 4.9 provided that the Benchmarker shall not use any such data that relates to a period which ended more than 36 months prior to the date of the appointment of the Benchmarker; |
| **“Good Value”** | in relation to a Benchmarked Service, that:   1. having taken into account the Performance Indicators and Target Service Levels, the value for money of the Charges attributable to that Benchmarked Service is at least as good as the value for money of the Upper Quartile; and 2. any Performance Indicators and Target Service Levels applicable to that Benchmarked Service are, having taken into account the Charges, equal to or better than the median service levels for the Comparable Service using Equivalent Services Data; and |
| **“Upper Quartile”** | the top 25% of instances of provision of a Comparable Service by members of the Comparison Group ranked by best value for money to the recipients of that Comparable Service. |

# FREQUENCY, PURPOSE AND SCOPE OF BENCHMARK REVIEW

## Netlink Star may, by written notice to the Supplier, require a Benchmark Review of any or all of the Services in order to establish whether a Benchmarked Service is, and/or the Benchmarked Services as a whole are, Good Value.

## Netlink Star shall not be entitled to carry out a Benchmark Review of any Services during the 12 month period from the Operational Service Commencement Date for those Services, nor at intervals of less than 12 months after any previous Benchmark Review relating to the same Services.

## The Services that are to be the Benchmarked Services shall be identified by Netlink Star in the notice given under Paragraph 2.1.

# APPOINTMENT OF BENCHMARKER

## Netlink Star shall appoint as the Benchmarker to carry out the Benchmark Review either an organisation on the list of organisations set out in Annex 7.3A or such other organisation as may be agreed in writing between the Parties.

## Netlink Star shall, at the written request of the Supplier, require the Benchmarker to enter into a confidentiality agreement with the Supplier in, or substantially in, the form set out in Annex 7.3B.

## The costs and expenses of the Benchmarker and the Benchmark Review shall be shared equally between both Parties provided that each Party shall bear its own internal costs of the Benchmark Review. The Benchmarker shall not be compensated on a contingency fee or incentive basis.

## Netlink Star shall be entitled to pay the Benchmarker’s costs and expenses in full and to recover the Supplier’s share from the Supplier.

# BENCHMARK REVIEW

## Netlink Star shall require the Benchmarker to produce, and to send to each Party for approval, a draft plan for the Benchmark Review within ten (10) Working Days after the date of the appointment of the Benchmarker, or such longer period as the Benchmarker shall reasonably request in all the circumstances. The plan must include:

### a proposed timetable for the Benchmark Review;

### a description of the information that the Benchmarker requires each Party to provide;

### a description of the benchmarking methodology to be used;

### a description that clearly illustrates that the benchmarking methodology to be used is capable of fulfilling the benchmarking objectives under Paragraph 2.1;

### an estimate of the resources required from each Party to underpin the delivery of the plan;

### a description of how the Benchmarker will scope and identify the Comparison Group;

### details of any entities which the Benchmarker proposes to include within the Comparison Group; and

### if in the Benchmarker's professional opinion there are no Comparable Services or the number of entities carrying out Comparable Services is insufficient to create a Comparison Group, a detailed approach for meeting the relevant benchmarking objective(s) under Paragraph 2.1 using a proxy for the Comparison Services and/or Comparison Group as applicable.

## The Parties acknowledge that the selection and or use of proxies for the Comparison Group (both in terms of number and identity of entities) and Comparable Services shall be a matter for the Benchmarker's professional judgment.

## Each Party shall give notice in writing to the Benchmarker and to the other Party within ten (10) Working Days after receiving the draft plan either approving the draft plan or suggesting amendments to that plan which must be reasonable. Where a Party suggests amendments to the draft plan pursuant to this Paragraph 4.3, the Benchmarker shall, if it believes the amendments are reasonable, produce an amended draft plan. Paragraph 4.1 and this Paragraph 4.3 shall apply to any amended draft plan.

## Failure by a Party to give notice under Paragraph 4.3 shall be treated as approval of the draft plan by that Party. If the Parties fail to approve the draft plan within 30 Working Days of its first being sent to them pursuant to Paragraph 4.1 then the Benchmarker shall prescribe the plan.

## Once the plan is approved by both Parties or prescribed by the Benchmarker, the Benchmarker shall carry out the Benchmark Review in accordance with the plan. Each Party shall procure that all the information described in the plan, together with any additional information reasonably required by the Benchmarker is provided to the Benchmarker without undue delay. If the Supplier fails to provide any information requested from it by the Benchmarker and described in the plan, such failure shall constitute a material Default for the purposes of clause 30.1 (Rectification Plan Process).

## Each Party shall co-operate fully with the Benchmarker, including by providing access to records, technical documentation, premises, equipment, systems and personnel at times reasonably requested by the Benchmarker, provided that the Benchmarker shall be instructed to minimise any disruption to the Services.

## Either Party may provide additional material to the Benchmarker to assist the Benchmarker in conducting the Benchmark Review.

## Once it has received the information it requires, the Benchmarker shall:

### finalise the sample of entities constituting the Comparison Group and collect data relating to Comparable Services. The final selection of the Comparison Group (both in terms of number and identity of entities) and of the Comparable Services shall be a matter for the Benchmarker's professional judgment;

### derive the Equivalent Services Data by applying the adjustment factors listed in Paragraph 4.9 and from an analysis of the Comparable Services;

### derive the relative value for money of the charges payable for the Comparable Services using the Equivalent Services Data and from that derive the Upper Quartile;

### derive the median service levels relating to the Comparable Services using the Equivalent Services Data;

### compare the value for money of the Charges attributable to the Benchmarked Services (having regard in particular to the applicable Performance Indicators and Target Service Levels) to the value for money of the Upper Quartile;

### compare the Performance Indicators and Target Service Levels attributable to the Benchmarked Services (having regard to the Charges and Service Credits) with the median service levels using the Equivalent Services Data; and

### determine whether or not each Benchmarked Service is and/or the Benchmarked Services as a whole are, Good Value.

## The Benchmarker shall have regard to the following matters when performing a comparative assessment of a Benchmarked Service and a Comparable Service in order to derive Equivalent Services Data:

### the contractual and business environment under which the Services are being provided (including the scope, scale, complexity and geographical spread of the Services);

### any front-end investment and development costs of the Supplier;

### the Supplier's risk profile including the financial, performance or liability risks associated with the provision of the Services as a whole;

### the extent of the Supplier's management and contract governance responsibilities;

### any other reasonable factors demonstrated by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive (such as erroneous costing, non-sustainable behaviour including excessive consumption of energy or over-aggressive pricing).

# BENCHMARK REPORT

## The Benchmarker shall be required to prepare a Benchmark Report and deliver it simultaneously to both Parties, at the time specified in the plan approved under Paragraph 4, setting out its findings. The Benchmark Report shall:

### include a finding as to whether or not each Benchmarked Service is and/or whether the Benchmarked Services as a whole are, Good Value;

### include other findings (if any) regarding the quality and competitiveness or otherwise of those Services;

### if any Benchmarked Service is not Good Value, or the Benchmarked Services as a whole are not Good Value, specify the changes that would be required to the Charges, Performance Indicators and/or Target Performance Levels, that would be required to make that Benchmarked Service or those Benchmarked Services as a whole Good Value; and

### illustrate the method used for any normalisation of the Equivalent Services Data.

## The Benchmarker shall act as an expert and not as an arbitrator.

## If the Benchmark Report states that any Benchmarked Service is not Good Value or that the Benchmarked Services as a whole are not Good Value, then the Supplier shall (subject to Paragraphs 5.5 and 5.6) implement the changes set out in the Benchmark Report as soon as reasonably practicable within timescales agreed with Netlink Star but in any event within no more than three (3) months. Any associated changes to the Charges shall take effect only from the same date and shall not be retrospective.

## The Supplier acknowledges and agrees that Benchmark Reviews shall not result in any increase to the Charges, disapplication of the Performance Indicators or any reduction in the Target Performance Levels.

## The Supplier shall be entitled to reject any Benchmark Report if the Supplier reasonably considers that the Benchmarker has not followed the procedure for the related Benchmark Review as set out in this Schedule in any material respect.

## The Supplier shall not be obliged to implement any Benchmark Report to the extent this would cause the Supplier to provide the Services at a loss (as determined, by reference to the Financial Model), or to the extent the Supplier cannot technically implement the recommended changes.

## In the event of any Dispute arising over whether the Benchmarker has followed the procedure for the related Benchmark Review under Paragraph 5.5 and/or any matter referred to in Paragraph 5.6, the Dispute shall be referred to Expert Determination. For the avoidance of doubt in the event of a Dispute between the Parties, Netlink Star shall continue to pay the Charges to the Supplier in accordance with the terms of this Agreement and the Performance Indicators and Target Performance Levels shall remain unchanged pending the conclusion of the Expert Determination.

## On conclusion of the Expert Determination if the Expert determines that all or any part of the Benchmark Report recommendations regarding any:

### reduction in the Charges shall be implemented by the Supplier, the Supplier shall immediately repay to Netlink Star the difference between the Charges paid by Netlink Star up to and including the ’ate of the Expert's determination and the date upon which the recommended reduction in Charges should have originally taken effect pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and

### changes to the Performance Indicators and/or Target Performance Levels shall be implemented by the Supplier:

#### the Supplier shall immediately implement the relevant changes;

#### the Supplier shall immediately pay an amount equal to any Service Credits which would have accrued up to and including the date of the Expert’s determination if the relevant changes had taken effect on the date determined pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and

#### the relevant changes 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 Agreement.

## Any failure by the Supplier to implement the changes as set out in the Benchmark Report in accordance with the relevant timescales determined in accordance with Paragraph 5.3 (unless the provisions of Paragraph 5.6 and/or Paragraph 5.7 apply) or in accordance with Paragraph 5.8 shall, without prejudice to any other rights or remedies of Netlink Star, constitute a Supplier Termination Event.

**ANNEX 7.3A:**

**APPROVED BENCHMARKERS**

1. Gartner

2. Forrester

**ANNEX 7.3B:**

**CONFIDENTIALITY AGREEMENT**

**THIS AGREEMENT** is made on [date]

**BETWEEN:**

1. ***UK PLC*** of **Blotten Vu, Woking, Surrey, KB** (the “**Supplier**”); and
2. **[*insert name*]** of [***insert address***] (the “**Benchmarker**” and together with the Supplier, the “**Parties**”).

**WHEREAS:**

1. Netlink Star Infrastructure Limited (“**Netlink Star**”) and the Supplier are party to a contract dated [insert date] (the “**Contract**”) for the provision by the Supplier of data centre migration services to Netlink Star.
2. The Benchmarker is to receive Confidential Information from the Supplier for the purpose of carrying out a benchmarking review for Netlink Star of one or more of such services pursuant to the terms of the Contract (the “**Permitted Purpose**”).

**IT IS AGREED as follows:**

# Interpretation

## In this Agreement, unless the context otherwise requires:

|  |  |
| --- | --- |
| **“Confidential  Information”** | means:   1. Information, including all personal data within the meaning of the Data Protection Legislation, and however it is conveyed, provided by the Supplier to the Benchmarker pursuant to this Agreement that relates to: 2. the Supplier; or 3. the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier; 4. other Information provided by the Supplier pursuant to this Agreement to the Benchmarker that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Benchmarker’s attention or into the Benchmarker’s possession in connection with the Permitted Purpose; |

1. information derived from any of the above, but not including any Information that:
2. was in the possession of the Benchmarker without obligation of confidentiality prior to its disclosure by the Supplier;
3. the Benchmarker obtained on a non-confidential basis from a third party who is not, to the Benchmarker’s knowledge or belief, bound by a confidentiality agreement with the Supplier or otherwise prohibited from disclosing the information to the Benchmarker;
4. was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
5. was independently developed without access to the Confidential Information;

**“Information”** means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

**“Permitted Purpose”** has the meaning given to that expression in recital (B) to this Agreement.

## In this Agreement:

1. a reference to any gender includes a reference to other genders;
2. the singular includes the plural and vice versa;
3. the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
4. references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
5. headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
6. references to Clauses are to clauses of this Agreement.

# Confidentiality Obligations

## In consideration of the Supplier providing Confidential Information to the Benchmarker, the Benchmarker shall:

1. treat all Confidential Information as secret and confidential;
2. have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
3. not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or, if relevant, other owner or except as expressly set out in this Agreement;
4. not transfer any of the Confidential Information outside the United Kingdom;
5. not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;
6. immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
7. once the Permitted Purpose has been fulfilled:
8. destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
9. ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Benchmarker) from any computer, word processor, voicemail system or any other device; and
10. make no further use of any Confidential Information.

# Permitted Disclosures

## The Benchmarker may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

1. reasonably need to receive the Confidential Information in connection with the Permitted Purpose; and
2. have been informed by the Benchmarker of the confidential nature of the Confidential Information; and
3. have agreed to terms similar to those in this Agreement.

## The Benchmarker shall be entitled to disclose Confidential Information to Netlink Star for the Permitted Purpose and to any Expert appointed in relation to a Dispute as referred to in Paragraph 5.7 of Schedule 7.3 (Benchmarking) to the Contract.

## The Benchmarker shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Benchmarker.

## Before making a disclosure pursuant to Clause 3.3, the Benchmarker shall, if the circumstances permit:

1. notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
2. ask the court or other public body to treat the Confidential Information as confidential.

# General

## The Benchmarker acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.

## This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:

1. to grant the Benchmarker any licence or rights other than as may be expressly stated in this Agreement;
2. to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
3. as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of this Agreement.

## The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

## Without prejudice to any other rights or remedies that the Supplier may have, the Benchmarker acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Benchmarker of any of the provisions of this Agreement. Accordingly, the Benchmarker acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.

## The maximum liability of the Benchmarker to the Supplier for any breach of this Agreement shall be limited to ten million pounds (£10,000,000).

## For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.

## Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.

## This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

# Notices

## Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

## Any Notice:

1. if to be given to the Supplier all be sent to:

Blotten Vu, Woking, Surrey, KR98 6DB

Attention: Company Secretary, (companysecretary.uk@Quroserv.com)

1. if to be given to the Benchmarker shall be sent to:

[*Name of Organisation*]

[*Address*]

Attention: [name]

# Governing law

## This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

## Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

**IN WITNESS** of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

**For and on behalf of Quroserv UK PLC**

Signature: Date:

Name: Position:

**For and on behalf of [*name of Benchmarker*]**

Signature: Date:

Name: Position:

# SCHEDULE 7.4

# Product and Service Catalogue

# Purpose of the Product and Service Catalogue

## This Schedule 7.4 includes the provision, maintenance, monitoring and operation by Supplier of:

### the Catalogue Items including the Supplier’s Catalogue charges included in the Base Service Charge as part of the Monthly Operate Charges; and

### the Service Requests in Annex B (including create, modify, decommission a Service Component, provision of the Hands and Eyes service, and miscellaneous Service Requests not relating to Service Components) represent standard, repeatable changes to the Catalogue Items in the Product and Service Catalogue. Service Requests are included in the Base & Variable Catalogue Charges as part of the Monthly Operate Charges.

## The Base Service Charge (Product and Service Catalogue items in operation) and Base & Variable Catalogue Charge (for Service Requests) will become Charges only when the Operate Service is in ‘live’ operation according to the Initial Transition Project Deliverables and acceptance criteria.

## Requests for changes made as part of Project Services shall not be charged as Base & Variable Catalogue Charges (Service Requests) as they are part of Project Charges.

## The Supplier shall maintain and provide the Product and Service Catalogue and the Base & Variable Catalogue (list of Service Requests) such that Netlink Star is able to augment and manage the delivery of the Operate Services in a flexible manner through fixed prices for certain services or products that Netlink Star may call upon throughout the Term.

## Netlink Star reserves the right to procure Catalogue Items from a third-party at its absolute discretion and is under no obligation to request or obtain Catalogue Items from the Supplier.

# Operation of the Product and Service Catalogue and Base & Variable Catalogue

## Netlink Star shall designate individuals to be authorised to place orders (Service Requests) for Catalogue Items (“**Authorised Users**”).

## Netlink Star shall implement a process which will enable only Authorised Users to order Catalogue Items (Annex 7.4A) through a Service Request (Annex 7.4B).

## The Supplier shall ensure that Catalogue Items relating to Service Components are delivered, installed or provided in a timely and efficient fashion to a consistent standard, and shall ensure that all agreed performance measures (including any agreed Service Levels) relating to provision and installation of new equipment or provision of services are met.

## The Supplier shall ensure that all Catalogue Items are available and can be delivered within the Service Levels described within the Agreement.

## Netlink Star shall ensure that a Service Request shall contain all details necessary for the delivery of the Catalogue Items without further need for intervention by Netlink Star. The Service Request shall include, but not be limited to:

### the name of the Authorised User;

### the nature of the Catalogue Items requested;

### the date, time and place where the Catalogue Items are required to be performed or delivered; and

### any specific requirements, details, descriptions necessary to deliver the Catalogue Items.

## The Supplier shall only charge for Catalogue Items through the agreed Catalogue Charges in accordance with Schedule 7.1 (Charging and Invoicing).

# Content of the Product and Service Catalogue

## The Supplier shall ensure that the Product and Service Catalogue identifies all types of Service Component that will be operated by the Supplier via the Operate Service.

## Annex 7.4A sets out the Service Components available within the Product and Service Catalogue and associated charges for operating the Service Components (the Base Service Charge). Monthly prices will be charged on a pro-rated basis according to when the Service Component was created or deleted within the month.

## Annex 7.4B sets out the relevant Service Requests that Netlink Star may require from time to time (Base & Variable Catalogue Charges).

## Annex 7.4C shows the Rate Card.

## Annex 7.4A-D, contains the Commercial Model.

# Content of the Base and Variable Catalogue (Service Requests)

## Annex 7.4B sets out the list of Service Requests (Base Variable Catalogue Charges) for which the Supplier shall provide a specified volume of per month at no charge. Any volume of requests in any month above this volume, as set out in Annex 7.4B, shall be charged according to the specific Catalogue Charge for that Service Request as set out in Annex 7.4B as ‘Additional Request Charge’ in the table in Annex 7.4B. Additionally, Netlink Star make a Service Request on an urgent basis as set out in Annex 7.4B as ‘Critical Response Charge’ in the table in Annex 7.4B.

## Parties agree that:

### the Service Request Fulfilment Time is the total time elapsed from the time the request is assigned to the Supplier team to delivery / completed execution of Service Request used in Schedule 2.2 (Service Levels) R-9 Service catalogue fulfilment. Service Request Fulfilment Time is by Service Request Complexity as shown in Table 1.

### the Critical Request Fulfilment Time (i.e. for Service Requests made by Netlink Star on an urgent basis) is a reduced response time where Netlink Star makes an urgent Service Request in the event of a business incident not associated with data centre operations. Only designated Authorised Users can instigate these types of requests. The fulfilment time for these types of Service Requests is 4 (four) hours as a maximum.

|  |  |  |  |
| --- | --- | --- | --- |
| **Service Request Complexity** | **Simple** | **Medium** | **Complex** |
| **Service Request Fulfilment Time** | < 24 hours | < 5 days | > 5 days and < 15 days |

**Table 1: Request Fulfilment Time by Service Request Complexity**

# Maintaining the Product and Service Catalogue

## The Supplier shall maintain the Product and Service Catalogue throughout the Term and ensure that the Catalogue Items remain relevant and consistent with the nature of Services being delivered.

## Netlink Star may request for new services or other items to be added to the Product and Service Catalogue at any time which shall be agreed through the Change Control Procedure.

## Supplier and Netlink Star will discuss and amend the Service Request Fulfilment Time when achieving the existing fulfilment time becomes impractical due to growth in data volume.

## The Supplier shall publish the Product and Service Catalogue to all Authorised Users on the occurrence of any amendment to a listed item, addition or deletion to the content of the Product and Service Catalogue.

# The Initial Base & Variable Catalogue

## The Catalogue as at the Effective Date is as in Annex 7.4B and indicates the volume of Service Requests included in the Base Catalogue Charge (“**Inclusive Catalogue Items**”) provided for no charge. The table in Annex 7.4A indicates the Supplier’s Catalogue charges

## The table also indicates the volume of requests above which the Supplier may recover costs through the Variable Catalogue Charges, based on the actual additional volume of such services consumed in the month and according to the ‘additional request charge’ in the table in Annex 7.4B.

## Where the Supplier is able to establish that a specific instance of a Project is repeatable, then it shall be added as a new Service Request in the Base & Variable Catalogue.

## Additions to the Base & Variable Catalogue will be made through the Change Control Procedure as a Minor and Non-Technical Change Request.

## All prices are in UK Sterling.

| **Catalogue Item** | **Unit Price** |
| --- | --- |
| **Virtual Server:** | |
| Windows 2012 (Large) | 13.35 |
| Windows 2016 (Large) | 13.35 |
| Windows 2019 (Large) | 13.35 |
| Red hat Linux 7.5 (Large) | 6.47 |
| Windows 2012 (Medium) | 13.35 |
| Windows 2016 (Medium) | 13.35 |
| Windows 2019 (Medium) | 13.35 |
| Red hat Linux 7.5 (Medium) | 6.47 |
| Windows 2012 (Small) | 13.35 |
| Windows 2016 (Small) | 13.35 |
| Windows 2019 (Small) | 13.35 |
| Red hat Linux 7.5 (Small) | 6.47 |
| **Physical Server:** | |
| Windows 2012 (Large) | 13.35 |
| Windows 2016 (Large) | 13.35 |
| Windows 2019 (Large) | 13.35 |
| Red hat Linux 7.5 (Large) | 6.47 |
| Windows 2012 (Medium) | 13.35 |
| Windows 2016 (Medium) | 13.35 |
| Windows 2019 (Medium) | 13.35 |
| Red hat Linux 7.5 (Medium) | 6.47 |
| Windows 2012 (Small) | 13.35 |
| Windows 2016 (Small) | 13.35 |
| Windows 2019 (Small) | 13.35 |
| Red hat Linux 7.5 (Small) | 6.47 |
| **Data Storage (SAN):** | |
| Storage Volume (per Gb) | 0.01 |
| Raw Disk (per Gb) | 0.01 |
| Binary Library (per Gb) | 0.01 |
| NFS Share | Charges are covered in the per Gb pricing above. |
| FTP Share | Charges are covered in the per Gb pricing above. |
| **Container Server:** |  |
| Kubernetes API Server | 109 |
| **Appliance:** | |
| Device | 4.80 |
| **Database:** | |
| SQL 2017 (Large) | 4.80 |
| SQL 2012 (Large) | 4.80 |
| DB2 11.1 (Large) | 4.80 |
| DB2 11.5 (Large) | 4.80 |
| Oracle 12c (Large) | 4.80 |
| Oracle 11g (Large) | 4.80 |
| SQL 2017 (Medium) | 4.80 |
| SQL 2012 (Medium) | 4.80 |
| DB2 11.1 (Medium) | 4.80 |
| DB2 11.5 (Medium) | 4.80 |
| Oracle 12c (Medium) | 4.80 |
| Oracle 11g (Medium) | 4.80 |
| SQL 2017 (Small) | 4.80 |
| SQL 2012 (Small) | 4.80 |
| DB2 11.1 (Small) | 4.80 |
| DB2 11.5 (Small) | 4.80 |
| Oracle 12c (Small) | 4.80 |
| Oracle 11g (Small) | 4.80 |
| **Active Directory:** | |
| User Management (Per user) | 0.60 |
| AD Security group (Per group) | 0.60 |
| AD Objects (Per object) | 0.60 |
| Domain Controllers (Per DC) | 0.60 |
| **Web Server:** | |
| Windows IIS 10 Standalone (Large) | 19.68 |
| Windows IIS 10 Load balanced (Large) | 19.68 |
| RHEL Apache 2.4 Standalone (Large) | 19.68 |
| RHEL Apache 2.4 Load balanced (Large) | 19.68 |
| Windows IIS 10 Standalone (Medium) | 19.68 |
| Windows IIS 10 Load balanced (Medium) | 19.68 |
| RHEL Apache 2.4 Standalone (Medium)) | 19.68 |
| RHEL Apache 2.4 Load balanced (Medium) | 19.68 |
| Windows IIS 10 Standalone (Small) | 19.68 |
| Windows IIS 10 Load balanced (Small) | 19.68 |
| RHEL Apache 2.4 Standalone (Small) | 19.68 |
| RHEL Apache 2.4 Load balanced (Small) | 19.68 |
| **Virtual Desktop Interface (VDI):** | |
| Windows 7 (Persistent) | 0.96 |
| Windows 7 (Non Persistent) | 0.96 |
| Windows 10 (Persistent) | 0.96 |
| Windows 10 (Non persistent) | 0.96 |
| Windows 7 (developer) | 0.96 |
| Windows 10 (Developer | 0.96 |
| **DC LAN:** | |
| ACI tenant | 0.73 |
| Bridge Domain | 0.73 |
| Subnet | 0.73 |
| Endpoint group | 0.73 |
| Contract | 0.73 |
| VRF | 0.73 |
| Loadbalancer | 0.73 |
| VLAN | 0.73 |
| Firewall | TBC |

**ANNEX 7.4A – COMMERCIAL MODEL**

**BASE SERVICE CHARGES (5 YEAR TERM)**

# Base Service Charges

## The table in this Annex 7.4A indicates the Supplier’s Catalogue charges included in the Base Service Charge.

## Unit Prices quoted are per Month, pro-rated to the day that the Service Component is available.

## This Base Service Charges will be fixed for the contract term. Any additional services required will be quoted in accordance with these Service Charges.

## All rates are quoted in GBP.

**Annex 7.4B**

**COMMERCIAL MODEL**

**BASE CATALOGUE CHARGES (5 YEAR TERM)**

# Base Catalogue Charges

## The table in this Annex 7.4Bindicates the Supplier’s tooling and Service Request charges included in the Base Catalogue Charge.

## Service Requests are defined by having the following properties:

### **Service Component Type**: the Infrastructure, Platform or other category of service;

### **Service Request Type:** whether they are request for:

#### Create a Service Component;

#### Modify a Service Component;

#### Decommission a Service Component;

#### Hands and Eyes requests; and

#### Miscellaneous, not relating to Service Components.

### **Service Request Description** is the scope of service to be delivered.

### **Service Request Complexity**: categorised as Simple, Medium or Complex (as a guide):

#### Simple (“**S**”): a set of items to process where the set is fewer than five distinct items with standardised configuration, fully pre-defined working instructions, quick and streamlined provisioning;

#### Medium (“**M**”): a set of items to process where the set is more than five distinct items but fewer than ten distinct items which are partially standardised configuration, pre-defined working instructions; and

#### Complex (“**C**”): a set of items to process where the set contains more than ten items to process. Non-Standard Configuration, limited expertise and without pre-defined working instructions.

## Each categorisation of Service Request has been given a monthly allocation Maximum Volume requests. By default Service Requests are not charged for. Above the Maximum Volume limit there will be a charge for additional each Service Request, ‘Additional Request Charge’ in the table in this Annex 7.4B

## Urgent requests delivered within a reduced timescale will be subject to a Critical Response Charge.

## Unit Prices quoted are per request.

## This Base Catalogue Charges will be fixed for the contract term. Any additional services request required will be quoted in accordance with these Charges. Tooling Charges and unit quantities shall be subject to confirmation during the Transition Project.

## All rates are quoted in GBP.

## **Tooling Charges**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service** | **Charge Description** | **Reason** | **Unit/Frequency** | **No. of Units/No. of occurrences over contract term** | **Charge per unit per month** | **Monthly Price** | **yearly price** | **Total Charge over contract term** |
| Event Management tool | Splunk RUN | Event correlation tool | Deployment once and monthly on going Support | 1020 | 3.1 | 3,180 | 38,157 | 178,065 |
| Patching tool | BigFix RUN | Patching tool for Linux and Wintel servers | Deployment once and monthly on going Support | 620 | 5.1 | 3,185 | 38,223 | 178,372 |
| ITIL Licenses | ServiceNow Licenses | ITIL Service now Licenses for engineering working on NRT | Deployment once and management on going Support | n/a | n/a | 2,437 | 29,247 | 136,487 |
| Automation Servers | Automation using DOP Platform | MFOO Server | Deployment once and monthly on going Support | 620 | 2.2 | 1,384 | 16,606 | 77,497 |
| Automation Network | Automation using DOP Platform | MFOO Network | Deployment once and monthly on going Support | 400 | 1.4 | 551 | 6,607 | 30,834 |
| Chat tool + Portal + IPAM + Tool support | Service Portal, Chat tool | Web Based chat and Service portal. Includes management of Icinga and Info blocks | Deployment once and management on going Support | n/a | 2,284 | 2,284 | 27,410 | 127,912 |
| Integration | SD2SD RUN | Integration / eBonding between SCCD and ITSM MSP DOP SNOW | Deployment once and management on going Support | 1 | 897 | 897 | 10,759 | 50,207 |
| Integration | EV2SD | Integration between Monitoring tool and Splunk | Deployment once and management on going Support | 1 | 362 | 362 | 4,340 | 20,253 |
| Connectivity | Connectivity SAM | Connectivity cost | Deployment once and management on going Support | 46 | 4.4 | 200.8 | 2,409 | 11,243 |
| Telephone | Odigo | Toll free number and telephonic support | Deployment once and monthly on going Support | 969 | 1.2 | 1,155 | 13,859 | 64,677 |
| RDS | GotoAssist | Remote desktop tool for L2 resolution | Deployment once and monthly on going Support | 1 | 49.2 | 49 | 591 | 2,758 |
| other expenses | Other expenses | On call, shift allowance, transport, laptop, mobile/data | Monthly on going Support | 1 | 431 | 431 | 5,177 | 24,159 |
|  |  |  |  |  |  |  | - | - |

Service Request Charges

| **Service Component Type** | **Service Request Description** | **Create (S)** | **Iate (M)** | **Create (C)** | **Modify (S)** | **Idify (M)** | **Modify (C)** | **Decommission (S)** | **DecommisIn (M)** | **Decommission (C)** | **Non Service Component Request** | **Additional Request Charge** | **Critical Response Charge** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Maximum Volume Requests (per month)** | **NA** | **100** | **30** | **5** | **250** | **80** | **5** | **100** | **30** | **5** | **20** |  |  |
| Virtual Server | Create Virtual Server | X |  |  |  |  |  |  |  |  |  | 80 | 100 |
| Virtual Server | Modify Virtual Server Configuration |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Server | Migrate Virtual Server to Virtual Server |  |  |  | X |  |  |  |  |  |  | Part of Migration | Part of Migration |
| Virtual Server | Migrate Physical Server to Virtual Server |  |  |  | X |  |  |  |  |  |  | Part of Migration | Part of Migration |
| Virtual Server | Create Virtual Server Snapshot |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Server | Decommission Virtual Server |  |  |  |  |  |  | X |  |  |  | 80 | 100 |
| Physical Server | Create Physical Server | X |  |  |  |  |  |  |  |  |  | 400 | 600 |
| Physical Server | Modify configuration of physical server |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Physical Server | Decommission Physical server |  |  |  |  |  |  | X |  |  |  | 400 | 600 |
| Container Server | Create Container Server | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Container Server | Modify Container Server |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Container Server | Decommission Container Server |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Virtual Desktop Server | Create Virtual Desktop Server | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Modify IP pool. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Modify DNS records in Infoblox |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Modify DNS zone(s) in Infoblox |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Provisioning of full Virtual Desktop or Rebuilding existing Virtual Desktops. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Packaging Application for APP Streaming or Changing existing Applications. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Publishing of application streaming. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Create or Updating VDI templates. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Scale up and scale out of the VDI Server. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Configure NTP source. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Configure SysLog and SMTP targets |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Virtual Desktop Server | Decommission VDI Server |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Database Server | Create Database Instance | X |  |  |  |  |  |  |  |  |  | 400 | 600 |
| Database Server | Modify Configuration of IP pool. |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Update of DNS records in Infoblox |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Update of DNS zone(s) in Infoblox |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Maintenance tasks configuration for DBs. |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Configure SysLog and SMTP targets |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Scale up and scale out of the DBMS service. |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Database Server | Decommission Database Instance Service Component |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Active Directory Object | Create Active Directory Object |  |  |  | X |  |  |  |  |  |  | 400 | 600 |
| Active Directory Object | Modify roles |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Active Directory Object | Modify user account |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Active Directory Object | Modify service/system account |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Active Directory Object | Modify group |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Active Directory Object | Decommission Active Directory Object |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN ACI tennant | Create ACI tennant | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Bridge Domain | Create Bridge Domain | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Subnet | Create Subnet | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Endpoint group | Create Endpoint group | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Contract | Create Contract | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN VLAN | Create VLAN | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN VRF | Create VRF | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Loadbalancer | Create Loadbalancer | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN Firewall | Create Firewall | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| DC LAN ACI Tennant | Modify ACI tennant |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Bridge Domain | Modify Bridge Domain |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Subnet | Modify Subnet |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Endpoint group | Modify Endpoint group |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Contract | Modify Contract |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN VRF | Modify VRF |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify Policies |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN VLAN | Modify VLAN |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify Routing tables |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify DNS records in Infoblox |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify DNS zones in Infoblox |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify Configuration of SSL/TLS |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Loadbalancer | Modify SLB and GSLB L4-L7 Load Balancers configuration |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Loadbalancer | Modify Load Balancer Server pool configuration and update. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN Loadbalancer | Scaling up or out of L4-L7 load balancers. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify Configuration NTP source. |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify Configuration SysLog and SMTP targets |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN General | Modify update FW rules in NSX |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| DC LAN ACI tennant | Decommission ACI tennant |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Bridge Domain | Decommission Bridge Domain |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Subnet | Decommission Subnet |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Endpoint group | Decommission Endpoint group |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Contract | Decommission Contract |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN VLAN | Decommission VLAN |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN VRF | Decommission VRF |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Loadbalancer | Decommission Loadbalancer |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| DC LAN Firewall | Decommission Firewall |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Storage SAN LUN | Create SAN LUN | X |  |  |  |  |  |  |  |  |  | 60 | 80 |
| Storage NFS Share | Create NFS share | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Storage FTP Share | Create FTP share | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Storage Raw Disk | Create RAW disk | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Storage Binary library/repository | Create Binary library/repository | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Storage SAN LUN | Modify SAN LUN |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage NFS Share | Modify NFS share |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage FTP Share | Modify FTP share |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage Raw Disk | Modify RAW disk |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage Binary library/repository | Modify Binary library/repository |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage SAN LUN | Scale up/down SAN LUN |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage NFS Share | Scale up/down NFS share |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage FTP Share | Scale up/down FTP share |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage Raw Disk | Scale up/down RAW disk |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage Binary library/repository | Scale up/down Binary library/repository |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage General | Archive storage volume |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage General | Restore storage volume |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Storage SAN LUN | Decommission SAN LUN |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Storage NFS Share | Decommission NFS share |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Storage FTP Share | Decommission FTP share |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Storage Raw Disk | Decommission RAW disk |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Storage Binary library/repository | Decommission Binary library/repository |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Appliance | Create appliance monitor | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Appliance | Modify configuration of appliance monitor |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Appliance | Decommission appliance monitor |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Web Server | Create Web Server | X |  |  |  |  |  |  |  |  |  | TBD | TBD |
| Web Server | Modify configuration of Web Server |  |  |  | X |  |  |  |  |  |  | TBD | TBD |
| Web Server | Decommission Web Server |  |  |  |  |  |  | X |  |  |  | TBD | TBD |
| Miscellaneous | Configure or update Monitoring Dashboards (system, application, and services orientated) in vRealize Operations as per requirements. |  |  |  | X |  |  |  |  |  | X | TBD | TBD |
| Miscellaneous | Configuration and update of monitoring metrics |  |  |  | X |  |  |  |  |  | X | TBD | TBD |
| Miscellaneous | Configuration and update of monitoring widgets |  |  |  | X |  |  |  |  |  | X | TBD | TBD |
| Miscellaneous | Configuration and update of dashboards access |  |  |  | X |  |  |  |  |  | X | TBD | TBD |
| Miscellaneous | Configuration and update on data gathering endpoints agents |  |  |  | X |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Check availability and reserve rac’ space according requester's specification. |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Physical placement/mounting of instance within allocated rack space |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Assessment of device architecture (air flow, rack fit, etc.) |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Check power capacity within the rack. |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Configuration and update of rack intelligent PDU |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Check top rack port and bandwidth capacity. |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Instance cabling for LAN and SAN. |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Instance cabling to PDUs. |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Cabling and labelling management |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Cabling to KVM (where applicable) |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Firmware/BIOS update for relevant components. (Where Applicable) |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Add, Remove, Change, Swap Server resources/components. (Where Applicable) |  |  |  |  |  |  |  |  |  | X | TBD | TBD |
| Hands and Eyes | Miscellaneous Small |  |  |  |  |  |  |  |  |  | X | 250 | 250 |
| Hands and Eyes | Miscellaneous Medium |  |  |  |  |  |  |  |  |  | X | 402 | 402 |
| Hands and Eyes | Miscellaneous Large |  |  |  |  |  |  |  |  |  | X | 874 | 874 |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |

**Annex 7.4C**

**COMMERCIAL MODEL**

**Supplier Rate Card**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **SFIA CODE** | **1** | | **2** | | **3** | | **4** | | **5** | | **6** | | **7** | |
|  |  |  | **Follow** | | **Assist** | | **Apply** | | **Enable** | | **Ensure, advise** | | **Initiate** | | **Set strategy** | |
|  |  |  | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** |
| **Strategy and architecture** | **Information strategy** | IT Governance | GOVN | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| IT strategy and planning | ITSP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Information management | IRMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Information systems coordination | ISCO | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Information security | SCTY | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Information assurance | INAS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Analytics | INAN | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Information content publishing | ICPM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
|  | **Advice and guidance** | Consultancy | CNSL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Technical specialism | TECH | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| **Business strategy and planning** | Research | RSCH | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| IT management | ITMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Financial management | FMIT | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Innovation | INOV | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Business process improvement | BPRE | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Enterprise and business architecture | STPL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Business risk management | BURM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Sustainability strategy | SUST | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| **Technical strategy and planning** | Emerging technology monitoring | EMRG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Continuity management | COPL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Sustainability management | SUMI | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Network planning | NTPL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Solution architecture | ARCH | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Data management | DATM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Methods and tools | METL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| **Change and transformation** | **Business change implementation** | Portfolio management | POMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Programme management | PGMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Project management | PRMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Portfolio programme and project support | PROF | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| **Business change management** | Business analysis | BUAN | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Requirements definition and management | REQM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Business process testing | BPTS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Change implementation planning and management | CIPM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Organisation design and implementation | ORDI | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Benefits management | BENM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Business modelling | BSMO | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| Sustainability assessment | SUAS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 414 | 1,995 | 414 |
| **Development and implementation** | **System development** | Systems development management | DLMG | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Data analysis | DTAN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Systems design | DESN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Network design | NTDS | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Database design | DBDS | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Programming/software development | PROG | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Animation development | ADEV | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Safety engineering | SFEN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Sustainability engineering | SUEN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Information content authoring | INCA | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Testing | TEST | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| **User experience** | User experience analysis | UNAN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| User experience design | HCEV | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| User experience evaluation | USEV | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| **Installation and integration** | Systems integration | SINT | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Porting/software configuration | PORT | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Hardware design | HWDE | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |
| Systems installation/decommissioning | HSIN | 420 | 91 | 530 | 155 | 632 | 226 | 876 | 321 | 1,003 | 414 | 1,274 | 414 | 1,498 | 414 |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **SFIA CODE** | **1** | | **2** | | **3** | | **4** | | **5** | | **6** | | **7** | |
|  |  |  | **Follow** | | **Assist** | | **Apply** | | **Enable** | | **Ensure, advise** | | **Initiate** | | **Set strategy** | |
|  |  |  | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** | **ON** | **OFF** |
| **Delivery and operation** | **Service design** | Availability management | AVMT | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Service level management | SLMO | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| **Service transition** | Service acceptance | SEAC | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Configuration management | CFMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Asset management | ASMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Change management | CHMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Release and deployment | RELM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| **Service operation** | System software | SYSP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Capacity management | CPMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Security administration | SCAD | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Penetration testing | PENT | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Radio frequency engineering | RFEN | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Application support | ASUP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| IT infrastructure | ITOP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Database administration | DBAD | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Storage management | STMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Network support | NTAS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Problem management | PBMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Incident management | USUP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Facilities management | DCMA | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| **Skills and quality** | **Skill management** | Learning and development management | ETMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | ,995 | 755 |
| Learning assessment and evaluation | LEDA | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Learning design and development | TMCR | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Learning delivery | ETDL | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Teaching and subject formation | TEAC | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Performance management | PEMT | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Resourcing | RESC | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Professional development | PDSV | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Quality management | QUMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Quality assurance | QUAS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Quality standards | QUST | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Conformance review | CORE | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Safety assessment | SFAS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
|  | Digital forensics | DGFS | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| **Relationships and engagement** | **Stakeholder management** | Sourcing | SORC | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Contract management | ITCM | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Relationship management | RLMT | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Customer service support | CSMG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| **Sales and Marketing** | Digital marketing | MKTG | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Selling | SALE | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Sales support | SSUP | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |
| Product management | PROD | 495 | 91 | 795 | 155 | 995 | 226 | 1,195 | 321 | 1,495 | 414 | 1,699 | 600 | 1,995 | 755 |

**ANNEX 7.4D**

**COMMERCIAL MODEL – BASE OVERHEAD CHARGE**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Contract Year 1** | | | | | | | | | | | | | |
| **Contract Month** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | **TOTAL** |
| **Monthly Cost** |  |  |  |  | 48,625 | 48,625 | 42,073 | 42,073 | 42,073 | 42,073 | 42,070 | 42,070 | **349,683** |
|  | | | | | | | | | | | | | |
| **Contract Year 2** | | | | | | | | | | | | | |
| **Contract Month** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | **TOTAL** |
| **Monthly Cost** | 36,928 | 36,928 | 36,928 | 36,928 | 36,259 | 36,259 | 36,441 | 36,441 | 36,441 | 36,441 | 36,434 | 36,434 | **438,860** |
|  | | | | | | | | | | | | | |
| **Contract Year 3** | | | | | | | | | | | | | |
| **Contract Month** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | **TOTAL** |
| **Monthly Cost** | 36,107 | 36,107 | 36,107 | 36,107 | 35,662 | 35,662 | 35,841 | 35,841 | 35,841 | 35,841 | 35,837 | 35,837 | **430,785** |
|  | | | | | | | | | | | | | |
| **Contract Year 4** | | | | | | | | | | | | | |
| **Contract Month** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | **TOTAL** |
| **Monthly Cost** | 35,510 | 35,510 | 35,510 | 35,510 | 35,141 | 35,141 | 35,318 | 35,318 | 35,318 | 35,318 | 35,315 | 35,315 | **424,228** |
|  | | | | | | | | | | | | | |
| **Contract Year 5** | | | | | | | | | | | | | |
| **Contract Month** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | **TOTAL** |
| **Monthly Cost** | 35,315 | 35,315 | 35,315 | 35,315 | 35,033 | 35,020 | 35,197 | 35,197 | 35,197 | 35,197 | 35,195 | 35,195 | **422,490** |
|  | | | | | | | | | | | | | |
|  | **TOTAL BASE OVERHEAD CHARGES (5 YEARS)** | | | | | | | | | | | | **2,066,046** |

# SCHEDULE 7.5

# NOT USED

# SCHEDULE 7.6

**FINANCIAL REPORTS AND AUDIT RIGHTS**

# DEFINITIONS

In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| **“Annual Contract Report”** | the annual contract report to be provided by the Supplier to Netlink Star pursuant to Paragraph 1 of Part B of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Audit Agents”** | 1. Netlink Star’s internal and external auditors; 2. Netlink Star’s statutory or regulatory auditors; 3. the Controller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; 4. HM Treasury or the Cabinet Office; 5. any party formally appointed by Netlink Star to carry out audit or similar review functions; and 6. successors or assigns of any of the above; |
| **“Contract Amendment Report”** | the contract amendment report to be provided by the Supplier to Netlink Star pursuant to Paragraph 1 of Part B of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Final Reconciliation Report”** | the final reconciliation report to be provided by the Supplier to Netlink Star pursuant to Paragraph 1 of Part B of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Financial Model”** | the Contract Inception Report, the latest Annual Contract Report or the latest Contract Amendment Report, whichever has been most recently approved by Netlink Star in accordance with Paragraph 2 of Part B of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Financial Reports”** | the contract Inception Report and the Reports listed in the table in Paragraph 1.1 of Part B of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Financial Representative”** | a reasonably skilled and experienced member of the Supplier’s staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Financial Reports; |
| **“Financial Transparency**  **Objectives”** | has the meaning given in Paragraph 1 of Part A of Schedule 7.6 (Financial Reports and Audit Rights); |
| **“Material Change”** | a Change which: materially changes the profile of the Charges; orvaries the total Charges payable during the Term (as forecast in the latest Financial Model) by:5% or more; or£0.5m or more. |

**PART A**

**FINANCIAL TRANSPARENCY OBJECTIVES**

# FINANCIAL TRANSPARENCY OBJECTIVES

The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with Netlink Star in order to achieve, the following objectives:

## **Understanding the Charges**

### for Netlink Star to understand any payment sought from it by the Supplier including time spent by Supplier Personnel in providing the Services and ability to automate and continuously improve the Services;

### for both Parties to be able to understand the forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;

## **Agreeing the impact of Change**

### for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier’s Charges;

### for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

## **Continuous improvement**

### for the Parties to challenge each other with ideas for efficiency and improvements; and

### to enable Netlink Star to demonstrate that it is achieving value for money for the tax payer relative to current market prices,

(together the “**Financial Transparency Objectives**”).

## The Parties acknowledge and agree that the Supplier’s non-compliance with the Financial Transparency Objectives will not itself constitute a breach of this Agreement. If either Party believes that the other is not complying with the spirit of the Financial Transparency Objectives it shall notify the other and the Parties shall in good faith discuss and agree any necessary remedial action at the relevant governance forum.

**PART B**

**FINANCIAL REPORTS**

# PROVISION OF THE FINANCIAL REPORTS

## The Supplier shall provide:

### the Contract Inception Report on or before the Effective Date; and

### during the Term the following financial reports to Netlink Star, in the frequency specified below:

|  |  |
| --- | --- |
| **Financial Report** | **When to be provided** |
| Contract Amendment Report | Within one (1) month of a Material Change being agreed between the Supplier and Netlink Star |
| Quarterly Contract Report | Within one (1) month of the end of each Quarter |
| Annual Contract Report | Within one (1) month of the end of the Contract Year to which that report relates |
| Final Reconciliation Report | Within six (6) months after the end of the Term |

## The Supplier shall provide to Netlink Star the Financial Reports in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which are issued by Netlink Star to the Supplier from time to time. Netlink Star shall be entitled to modify the template for any Financial Report by giving written notice to the Supplier, including a copy of the updated template.

## A copy of each Financial Report shall be held by both Netlink Star and the Supplier. If there is a Dispute regarding a Financial Report, such Dispute shall be escalated via the Dispute Resolution Procedure.

## Each Financial Report shall:

### be completed by the Supplier using reasonable skill and care;

### incorporate and use the same defined terms as are used in this Agreement;

### quote all monetary values in pounds sterling;

### quote all Charges as exclusive of any VAT; and

### quote all Charges based on current prices.

## Each Annual Contract Report and the Final Reconciliation Report shall be certified by the Supplier’s Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by Netlink Star in advance of issue of the relevant Financial Report), acting with express authority, as:

### being accurate and not misleading;

### having been prepared in conformity with generally accepted accounting principles within the United Kingdom;

### being a true and fair reflection of the information included within the Supplier’s management and statutory accounts; and

### compliant with the requirements of Paragraph 1.6.

## The Supplier shall:

### prepare each Financial Report using the same methodology as that used for the Contract Inception Report;

### ensure that each Annual Contract Report and each Contract Amendment Report (if any) is a true and fair reflection of the costs forecast by the Supplier;

### the Final Reconciliation Report is a true and fair reflection of the costs; and

### not have any other internal financial model in relation to the Services inconsistent with the Financial Model.

## During the Term, and for a period of 12 months following the end of the Term, the Supplier shall make available a Financial Representative at reasonable times and on reasonable notice to answer any reasonable queries that Netlink Star may have on any of the Financial Reports.

## If the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:

### the costs incurred (or those forecast to be incurred) by the Supplier; and/or

### the forecast Charges for the remainder of the Term, the Supplier shall, as soon as practicable, notify Netlink Star in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph 1.8 shall not have the effect of amending any provisions of this Agreement.

# FINANCIAL MODEL

## Following the delivery by the Supplier of each Annual Contract Report and any Contract Amendment Report:

### the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree). A Financial Representative shall attend the meeting;

### the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the Contract Inception Report or immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the reasonable satisfaction of Netlink Star; and

### Netlink Star, acting reasonably and in good faith, shall within ten (10) Working Days of the meeting referred to in Paragraph 2.1.1 notify the Supplier that:

#### the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any reasonably necessary modifications to the Financial Report and/or supply Netlink Star with such supporting evidence as is reasonably required to address Netlink Star’s concerns within ten (10) Working Days of such notification and Netlink Star shall, following receipt of such amended Financial Report and/or supporting information, promptly approve or reject such Financial Report; or

#### Netlink Star has approved the relevant Financial Report.

## Following approval by Netlink Star of the relevant Financial Report in accordance with Paragraph 2.1.3, that version shall become, with effect from the date of such approval, the current approved version of the Financial Model for the purposes of this Agreement, a version of which shall be held by both Netlink Star and the Supplier. If there is a Dispute regarding a Financial Report, Netlink Star’s copy of the relevant Financial Report shall be authoritative. If the Parties are unable to reach agreement on any Financial Report within 30 Working Days of its receipt by Netlink Star, the matter shall be referred for determination in accordance with the Dispute Resolution Procedure.

# DISCUSSION OF QUARTERLY CONTRACT REPORTS AND FINAL RECONCILIATION REPORT

## Following the delivery by the Supplier of:

### each Quarterly Contract Report, the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree);

### the Final Reconciliation Report, the Parties shall meet to discuss its contents within ten (10) Working Days of receipt (or such other period as the Parties shall agree),

and, in each case, a Financial Representative shall attend the relevant meeting.

# KEY SUB-CONTRACTORS

## The Supplier shall, if requested by Netlink Star, provide (or procure the provision of) a report or reports including the level of information set out in the Financial Reports in relation to the charges and expenses to be incurred by any of its Key Sub-contractors.

## Without prejudice to Paragraph 1.1 of Part C, the Supplier shall:

### be responsible for auditing the financial models/reports of its Key Subcontractors and for any associated charges and expenses incurred or forecast to be incurred; and

### on written request by Netlink Star, provide Netlink Star or procure that Netlink Star is provided with:

#### full copies of audit reports for the Key Sub-contractors. Netlink Star shall be entitled to rely on such audit reports; and

#### further explanation of, and reasonable supporting information in relation to, any audit reports provided.

**PART C**

**AUDIT RIGHTS**

# AUDIT RIGHTS

## Subject to the other provisions in this Paragraph 1, Netlink Star, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of 12 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors of the Supplier’s obligations under this Agreement, including for the following purposes:

### to verify the accuracy of the Charges and any other amounts payable by Netlink Star under this Agreement (and proposed or actual variations to such Charges and payments);

### to verify the Supplier’s and each Key Sub-contractor’s compliance with this Agreement and applicable Law;

### to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or reasonably suspected breach of security and in these circumstances Netlink Star shall provide as much notice and information about the purpose or objective of its investigations as is reasonably possible and/or appropriate in the circumstances;

### to identify or investigate any circumstances which may materially or significantly impact upon the financial stability of the Supplier and thereby affecting the Supplier’s ability to perform the Services;

### to obtain such information as is necessary to fulfil Netlink Star’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

### to verify/request information for the purposes of Netlink Star’s internal and statutory audits and to prepare, examine and/or certify Netlink Star’s annual and interim reports and accounts;

### to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which Netlink Star has used its resources;

### to verify the accuracy and completeness of any Management Information delivered or required by this Agreement; to review any Service Level Reports and/or other records relating to the Supplier’s performance of the Services and any other information reasonably required to enable Netlink Star to verify the detail contained in the Service Level Reports;

### to allow reasonable access to any Sites or other premises controlled by the Supplier and to the Supplier Equipment used in the performance of the Services);

### to review the accuracy and completeness of the Records;

### to review any records created during the design and development of the Services and information relating to Testing;

### to review the Supplier’s quality management systems (including all relevant Quality Plans and any quality manuals and procedures); to review the Supplier’s compliance with the Standards; and/or

### to review the integrity, confidentiality and security of Netlink Star Data.

## Netlink Star shall not be entitled to use an Audit Agent that is a competitor of the Supplier unless Netlink Star has first obtained the Supplier’s written consent and such Audit Agent agrees to be bound by the Supplier’s confidentiality terms.

## Except where an audit is imposed on Netlink Star by a regulatory body or where Netlink Star has reasonable grounds for believing that the Supplier has not complied with its obligations under this Agreement, Netlink Star may not conduct an audit of the Supplier more than once in any Contract Year.

## Nothing in this Agreement shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

## Under no circumstances shall Netlink Star or its Audit Agents be given access to: (i) the Supplier’s internal pricing; (ii) non-public external reports; or (iii) internal reports prepared by the Supplier’s internal audit functions.

# CONDUCT OF AUDITS

## Netlink Star shall during each audit comply with those confidentiality, security, sites, systems and facilities operating procedures of the Supplier and use all reasonable endeavours to ensure that the conduct of each audit causes minimal disruption to the Supplier’s business and the performance of the Services as well as the provision of services to the Supplier’s other client’.

## Subject to Netlink Star's obligations of confidentiality, the Supplier shall provide Netlink Star and the Audit Agents with all reasonable cooperation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:

### all information requested by Netlink Star within the permitted scope of the audit;

### reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

### access to the Supplier System; and

### access to Supplier Personnel,

## provided that the Supplier shall not be obliged to release any information that relates to other customers or its underlying costs, margins or overheads or internal reports and confidential working papers or allow Netlink Star any unsupervised access to its shared computing environment.

## The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance with the Performance Indicators.

## Netlink Star shall provide at least 15 Working Days’ notice of its intention to conduct an audit unless Netlink Star has reasonable grounds for believing that the Supplier is in material breach of its obligations under this Agreement in which case Netlink Star shall only be required to give as much notice as is reasonably possible in the circumstances. Netlink Star will ensure that audits are conducted during normal business hours (8am to 6pm).

## The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse Netlink Star for all Netlink Star's reasonable costs incurred in connection with the audit.

# USE OF SUPPLIER’S INTERNAL AUDIT TEAM

## As an alternative to Netlink Star’s right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, Netlink Star may require in writing that an audit is undertaken by the Supplier’s own internal audit function for any of the purposes set out in Paragraph 1.1.

## Following the receipt of a request from Netlink Star under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that Netlink Star has access to:

### the resultant audit reports; and

### all relevant members of the Supplier’s internal audit team for the purpose of understanding such audit reports.

# RESPONSE TO AUDITS

## If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:

### the Supplier has committed a Default, Netlink Star may (without prejudice to any rights and remedies Netlink Star may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;

### there is an error in a Financial Report, the Supplier shall promptly rectify the error;

### Netlink Star has overpaid any Charges, the Supplier shall pay to Netlink Star:

#### the amount overpaid;

#### interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of overpayment by Netlink Star up to the date of repayment by the Supplier; and

#### only where the amount of overpayment exceeds an amount equivalent to two per cent (2%) of the annual Charges in the Contract Year in which the audit takes place, the reasonable costs incurred by Netlink Star in undertaking the audit (Netlink Star may exercise its right to deduct such amount from the Charges if it prefers); and

### Netlink Star has underpaid any Charges, the Supplier shall not be entitled to increase the Charges paid or payable by Netlink Star.

# SCHEDULE 7.7

# ANTICIPATED SAVINGS

# GAIN SHARE

## If the implementation of any Service Request, or Change does or may result in, a reduction to the costs incurred by the Supplier in providing the Services:-

### the Supplier shall notify Netlink Star promptly upon identifying such actual or potential cost saving, and provide Netlink Star with details of the Supplier's cost saving; and

### the Parties shall use their respective reasonable endeavours to agree the apportionment of the Supplier's cost saving in accordance with the principles set out in this paragraph, with consequential reductions to the relevant Charges.

## The principles for the purposes of this paragraph shall’ be that:-

### if the Supplier's cost savings do not result from a Change arising from the a Supplier request, those savings are to be exclusively for the benefit of Netlink Star and shall result in a reduction to the relevant Charges (or such alternative Charge as is agreed by Netlink Star to be subject to the reduction) equal to the cost savings; and

### if the Supplier's cost savings result from a Change requested by the Supplier, and the Supplier has agreed to contribute to the costs of the development of the Change, the Supplier and Netlink Star shall share the benefit of the savings on an equal basis so that the parties each receive a financial benefit from innovations in which the parties have both invested during the Term.

## The parties acknowledge and agree that the Supplier has committed to making a number of cost savings for Netlink Star through the provision of the Services in the manner (including using the tooling and processes) specified in Schedule 4.1 (Supplier Solution) and these cost savings are reflected in the Base Charges. Therefore, and for the avoidance of doubt, any costs savings achieved through the provision of the Services in the manner (including using the tooling and processes) specified in Schedule 4.1 (Supplier Solution) (“**Excluded Savings**”) are out of scope of, and excluded from, this Schedule and not recoverable pursuant to clause 28.9.6 of the Agreement.

## If the Supplier identifies any cost reduction opportunities in addition to the Excluded Savings, these will be tracked as part of the improvement process set out at clause 9 of the Agreement and reported at the Service Management Review Meeting. It is during these meetings that any additional investment required from Netlink Star will be communicated and agreed.

# SCHEDULE 7.8

# NOT USED

SCHEDULE 8.1

**GOVERNANCE PROCEDURES**

# Governance Structure and Principles

## Governance bodies will be formed as illustrated below with named participants meeting at agreed intervals to review progress, resolve issues and to pro-actively capture and mitigate risks.

## These governance bodies are not hierarchical; some are technical and some are commercial, so not all decisions will be required to flow through all levels, although some governance bodies will necessarily feed into others.

## These governance bodies are strategic (shown in the diagram in blue), operational (shown in yellow), and Project-based (shown in grey).

## The Supplier shall support all levels of the governance structure and be responsible for providing transparency through the provision of accurate, clear, timely and relevant information to enable informed decisions to be taken by the relevant governance body within this Schedule.

## The Parties shall establish the strategic governance bodies as set out in this Schedule. With respect to each strategic governance body, the Party not responsible for (i) setting up the body in question and (ii) the related charter shall provide reasonable support to the responsible Party to assist with the creation of the body and maintenance of the charter.

## The Parties shall comply with the requirements of the charters.

## The Parties shall co-operate to ensure that all governance bodies shall resolve the issues and achieve the objectives placed before them in a timely and efficient manner.

## The Parties shall ensure that the attendees at each governance body include individuals who are authorised and empowered to make relevant decisions and have access to information for such decisions to be made.

## Each Party is responsible for ensuring appropriate attendance at all governance meetings including making all reasonable efforts to ensure (i) all personnel identified in the “Membership” section of the applicable charter attend all applicable governance meetings and (ii) if any such personnel are unable to attend, that a delegate attends in their place, that such delegate is properly briefed and prepared and debriefs the member after the meeting.

## The Supplier shall be responsible for the creation and upkeep of a document repository for the safekeeping of all meeting minutes of the governance bodies (the “**Governance Document Repository**”).

## The Chair of each governing body shall be responsible for chairing all meetings for which it is designated as Chair in the applicable charter and with respect to the same, ensuring:

### the prompt inclusion in the Governance Document Repository of detailed and accurate minutes of each meeting held by the applicable governing body (such minutes to include note of any issues including of resourcing and attendance) and maintenance of the same;

### the prompt inclusion of records of progress of follow up tasks and activities in the Governance Document Repository including unresolved issues and their escalation and maintenance of the same;]

### that meetings only take place if they are quorate;

### the prompt circulation of meeting minutes to all the appropriate persons within seven (7) Working Days of each meeting;

### that each such meeting is scheduled;

### that the agenda is set for each such meeting and circulated to all attendees in advance;

### that progress of any follow up tasks and activities is monitored;

### that an administrator is appointed, if appropriate;

### escalating unresolved issues after every effort is made to resolve them with all necessary information and documentation to support the issue including remedies tried; and

### facilitating the process or procedure by which any decision agreed at any meeting is given effect in the appropriate manner.

## The Chair may delegate any of the responsibilities set out in Paragraph 1.11 above but shall retain overall accountability for ensuring any delegated responsibilities are carried out.

## It is expected that the governance structure will evolve over time based on Netlink Star’s needs and subject to agreement of both Parties. Such evolution of the governance structure (including amendments to this Governance Schedule and the charters set out in Annex 8.1A) shall not constitute Changes for the purposes of Schedule 8.2 (Change Control Procedure),

## Notwithstanding the meeting frequency set out in the relevant charter, Netlink Star may at its discretion call a meeting of any governance body at any time on reasonable notice to the Supplier.

# Joint Governance

## The governance groups shall provide a mechanism for enabling co-operative working between the Supplier, Netlink Star and any relevant third party suppliers involved in the delivery of the Services.

## In order to ensure the effective delivery of the Services, Supplier shall co-operate with all relevant Other Suppliers involved in the delivery of the Services as may be reasonably necessary in connection with the performance of the Services, to ensure the Services (and the services to be provided by all relevant Other Suppliers) can be provided in a co-ordinated, effective and timely manner.

## The Supplier shall use every effort to resolve any issues involving Other Suppliers with such Other Supplier(s) before escalating to Netlink Star.

# Strategic Governance: Executive Board Meeting

## There shall be a single Executive Board Meeting to provide governance for the Services at a strategic leadership level.

## The Executive Board Meeting shall:

### be the highest decision-making body in the governance structure;

### ensure that the relationship between Netlink Star and the Supplier continues to be successful throughout the term of the Agreement

### meet quarterly;

### provide leadership at a strategic level and ensure a healthy productive relationship exists and grows for both Parties

### Discuss the overall relationship between the parties and future direction of the relationship and agreement

### review strategic level achievements and manage and mitigate concerns raised by either Party;

### allow the Supplier to present a strategic business update; and

### allow Netlink Star to explain any potential future changes in business strategy and to provide guidance on policy matters that may have an impact on the implementation of the Services

### allow The charter for the Executive Board Meeting is in Annex 8.1A.

## Netlink Star shall be responsible for setting up Executive Board Meetings, maintaining and finalising the charter with the Supplier and agreeing the participants.

## Executive Board Meetings shall be quorate providing that at least two (2) representatives from each Party are present.

# Strategic Governance: Services Steering Board

## There shall be a Services Steering Board to provide governance for Service at a strategic level.

## The Services Steering Board shall:

### meet quarterly;

### ensure the strategic direction of the Services and the Financial Model are always aligned and remain fit-for-purpose for the Term;

### ensure that this Agreement is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by Netlink Star and the commercial benefit derived by the Supplier

### review and approve the Continuous Improvement Plan from the Supplier

### share Netlink Star’s business strategy and provide guidance on safety matters which may impact on the implementation of the Services;

### provide guidance and authorisation for any change referred to it by the Service Management Review Meeting or the Change Approval Board; and

### provide and be responsible for ensuring that the Projects achieve their planned objectives by ensuring the governance bodies in this Schedule all have agreed charters with Netlink Star’s approval and that all governance body meetings take place and are functioning as described in their respective charters

## The charter for the Services Steering Board is in Annex 8.1A.

## Netlink Star shall be responsible for setting up Service Steering Board meetings, maintaining and finalising the charter with the Supplier and agreeing the participants.

# Operational Governance: Service Management Review Meeting

## There shall be a Service Management Review Meeting to provide governance for Services at operational level. The Service Management Review Meeting shall be the highest operational day-to-day decision-making body for the Operate Services.

## The Service Management Review Meeting shall:

### meet monthly;

### provide day-to-day decision-making and operational governance between the Parties;

### monitor safety and track and ensure compliance of the Supplier with the Standards;

### assure the coherence and consistency of the systems architecture for the Supplier Solution and its compliance with Netlink Star Requirements by ensuring technical change approval is gained by the Technical Design Authority

### monitor developments in new technology and report on their potential benefit to the Services;

### review performance of the Services against Service Levels using the Service Level management information provided by the Supplier

### monitor, report and mitigate risks;

### ensure post incident reviews are held and lessons are learned;

### review the commercial relationship to ensure the financial situation is in accordance with the Financial Model

### prioritise implementation activities and Changes; and

### oversee the impact of all Changes set out in the Change Log, including (as appropriate) whether the proposed Change

#### has an impact on other areas or aspects of this Agreement and/or other documentation relating to the Services;

#### has an impact on the ability of Netlink Star to meet its agreed business needs within agreed timescales

#### will raise any risks or issues relating to the proposed Change;

#### will provide value for money in consideration of any changes to the Financial Model, future Charges and/or Performance Indicators and Target Performance Levels; and

#### reject/revoke approved Changes where necessary.

## The charter for the Service Management Review Meeting is in Annex 8.1A.

## Supplier shall be responsible for setting up Service Management Review meetings, maintaining and finalising the charter with Netlink Star and agreeing the participants.

# Operational Governance: Technical Design Authority

## The Technical Design Authority shall:

### Provide governance for the Technical Designs to ensure compliance with Netlink Star’s strategic technical roadmap and designs;

### shall meet monthly or as needed by the Supplier and as agreed with Netlink Star;

### ensure technical compliance to Netlink Star’s Technical Design standards and technology roadmap across Netlink Star; and

### listen to proposals from the Supplier for new technology/tools and review and approve/reject systems architecture designs

## The charter for the Technical Design Authority shall be set by Netlink Star and agreed with the Supplier and will contain at a minimum those items listed in Paragraph 6.1 and with the Charter in Annex 8.1A.

## Netlink Star shall be responsible for setting up Technical Design Authority meetings, maintaining and finalising the charter with the Supplier and agreeing the participants.

# Project Governance: Data Centre Portfolio Board

## The Data Centre Portfolio Board shall:

### be the single contract and operational group to provide governance of Projects and shall ensure the effective implementation and coordination of, and between Projects, and for the delivery of all new Projects requests in accordance with Schedule 6 by Netlink Star;

### meet monthly;

### give Netlink Star, and in particular Netlink Star’s stakeholders, senior level guidance, leadership, and confidence in the overall delivery of the Projects in accordance with Schedule 6 and to ensure that all Projects achieve their planned objectives; and

### be responsible for the ensuring that the Projects achieve their planned objectives by carrying out the following

#### monitoring and reporting on achievements;

#### managing and mitigating concerns raised by either Party;

#### managing, monitoring and guiding the delivery of the Initial Transition Project;

#### managing, monitoring and guiding the delivery of the Migration Project and any interdependencies with the Initial Transition Project; and

#### managing, monitoring and guiding the delivery of new Project Add-on Requests using Schedule 8.2 (Change Control Procedure) and in accordance with Schedule 6

## The charter for the Data Centre Portfolio Board shall be agreed with the Supplier and will contain at a minimum those items listed the Programme and Project Delivery charter in Annex 8.1A.

## Supplier shall be responsible for setting up Data Centre Portfolio Board meetings, maintaining and finalising the charter with Netlink Star and agreeing the participants.

# Project Governance: Project Delivery Meeting

## The Project Delivery Meetingshall:

### provide project team review governance in accordance with Schedule 6 for each Project:

### meet weekly or as needed by the Supplier and agreed with Netlink Star.

### manage the project delivery team and feed progress into the Data Centre Portfolio Board; and

### track and report on:

#### milestone delivery; including contract performance point (CPP) Milestones

#### safety matters and monitoring compliance with all Standards;

#### risks, issues, assumptions, dependencies and opportunities;

#### progress and providing guidance on progress of the Project delivery and changes; and

#### budget, charges, payments and commercial elements of the Project.

## The charter for the Project Delivery Meeting shall be agreed with the Supplier and will contain at a minimum those items listed in Paragraph 8.1 and with the charter in Annex 8.1A.

## Supplier shall be responsible for setting up Project Delivery meetings, maintaining and finalising the charter with Netlink Star and agreeing the participants.

# Escalation process

## Subject to Paragraph 9.2, issues occurring within the Services shall be raised and resolved in the first instance within the relevant governance group where possible.

## Issues occurring with Other Suppliers shall in the first instance be addressed by Supplier and the applicable Other Supplier(s) (minimising Netlink Star’s involvement to the extent deemed appropriate by Netlink Star) in accordance with Paragraph 2.

## Failing satisfactory resolution of any issue by the relevant Parties pursuant to Paragraph 9.1 or 9.2 , or if either Party notifies the other that the issue has become a Dispute, the issue or Dispute shall follow the procedure in Schedule 8.3 (Dispute Resolution Procedure).

|  |  |  |
| --- | --- | --- |
| **ANNEX 8.1A CHARTERS FOR GOVERNANCE** | | |
| Charter | **Executive Board** | |
| Purpose / Role / Agenda | **Purpose:** To provide leadership at a strategic level and to ensure a healthy productive relationship exists and grows for both Parties  Role:   * Discussing the overall relationship between the Parties and future direction * Reviews strategic level achievements and manages and mitigates concerns raised by either Party * For the Supplier to present a strategic business update * For Netlink Star to explain any potential future changes to the business strategy and provide guidance on policy matters which may have an impact on the implementation of the Services.   Agenda shall be determined by the Chair | |
| **Scope of Authority** | The Executive Board Meeting shall act as the highest-level executive body, with the authority to:   * Review any escalations from other governance bodies that relate to issues in the relationship (positive or negative) initiated from either Party * Decide the future direction of the relationship | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Head of Operations, Netlink Star  Administrator: Supplier Contract Manager, Netlink Star  Members:   * Executive Sponsor, Supplier * VP, TMTS Market Unit Head, Supplier * Account Executive, Supplier * Commercial Director, Netlink Star * Netlink Star Telecoms Director, Netlink Star * Chair of the Strategic Account Meeting, Netlink Star * CISO, Netlink Star (optional) | **Minimum Level of attendance:**  At least two representatives from each Party to be present |
| **Frequency** | Quarterly | |
| **Areas for review** | * Supplier’s strategic business update * High level issues and risks related to the Services and/or the Netlink Star and the Supplier’s relationship * Any changes to Netlink Star’s business strategy that may impact the Supplier | |
| **Inputs** | Dashboards, Performance Reports, list of achievements, high level issues and risks, escalations from other governance bodies | |
| **Outputs** | Board Minutes, Recommendations, strategic decisions made | |
| **Escalation** |  | |
| **Related Meetings** | Services Steering Board | |

|  |  |  |
| --- | --- | --- |
| **Charter** | **Services Steering Board** | |
| Purpose / Role / Agenda | Purpose: To ensure the strategic direction and the financial model are always aligned and remain fit-for-purpose for the Term.  Role:   * Ensures that this Agreement is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by Netlink Star and the commercial benefit derived by the Supplier * Netlink Star shares the business strategy and provides guidance on safety matters which may impact on the implementation of the Services * Netlink Star provides guidance and authorisation for any Change referred to it by the Change Approval Board. * Reviews the Supplier’s service performance at a strategic level and ensures alignment with Schedule 7.8 Suppliers Financial Model * Validates and certifies open book and/or Supplier accounts against the Supplier’s Financial Model * Monitors strategic level achievements and manages and mitigates concerns raised by either Party * Reviews and approves the Continuous Improvement Plan from the Supplier * Receives and reviews reports from the Service Management Review Team on technology, Service and other developments that may offer potential for improving the benefit that either Party is receiving. * Responds to issues escalated from other governance bodies with regards to the financial model * Hears and manages any issues escalated from other governance bodies before they turn into a Dispute * Monitors high-level Milestone delivery from current Project implementations, service delivery and any other services delivered under this Agreement. * Monitors resourcing for governance bodies to ensure they are effective * Implements decisions made by the Executive Board Meeting * Review status of Exit Plan obligations   Agenda shall be determined by the Chair. | |
| **Scope of Authority** | The Services Steering Board has authority to:   * Re-set/change direction of the Service where closer alignment is required to Netlink Star’s strategic business needs and future direction with agreement from both Parties * Change the Service Governance arrangements * Approve/reject project, contract and service delivery Changes including changes to the Supplier Personnel * Make decisions on any changes proposed by either Party to the Supplier’s Financial Model * Alter commercial agreements with the Supplier | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Service Assurance Manager, Netlink Star  Administrator: Supplier Manager/Contract Manager, Netlink Star  Members:   * Service Owner, Netlink Star * Service Manager, Netlink Star * Programme Director, Netlink Star * Finance Business Partner, Netlink Star * Project Manager(s), Netlink Star * Security representative, Netlink Star (optional) * Account Executive, Supplier * Service Owner, Supplier * Service Delivery Manager, Supplier * Project Manager, Supplier | **Minimum Level of attendance:**  At least two representatives for each Party to be present |
| **Frequency** | Quarterly | |
| **Areas for review** | * Service Performance, Projects, Improvement Opportunities, Business Strategy Alignment, Escalations * Financial position, Costs, Savings, Opportunities, Total Cost of Ownership | |
| **Inputs** | * High level Service Management Reports, Dashboard Reports, KPI Reports, Service Improvement suggestions with benefits * Schedule 7.4 Supplier’s Financial Model * Current spend versus forecasted spend * List of continuous improvement initiatives to reduce costs (for the Supplier and Netlink Star) – TCO KPIs. | |
| **Outputs** | * Minutes, Resolutions to Escalations/Items for Escalation * Schedule 7.4 Supplier’s Financial Model (if any changes) * Acceptance and detail of any Changes including Change owner * Agreement/acceptance that Netlink Star security standards are being met | |
| **Escalation** | Executive Board Meeting | |
| **Related Meetings** | Service Management Review Meeting, Data Centre Portfolio Board | |

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| **Charter** | **Service Management Review Meeting** | | | |
| Purpose / Role / Agenda | **Purpose:** to provide day-to-day decision-making and business-as-usual operational governance between all Parties  **Role:**   * Manages and assesses the general operational performance of Supplier, e.g. against SLAs and that the Supplier’s reporting is sufficient for this purpose * Ensures that daily Service management decisions are made to deliver and enable the successful ongoing operation of the Service, e.g. monitors: safety, compliance to standards, technical/architectural changes * Reviews and reports on Service Credits, KPIs, Risks and ensures Post Incident Reviews are held. * Reviews the financial situation with regards to Schedule 7.8, and provides commercial recommendations to the Strategic Account Review Board as required * Reviews the effectiveness, resourcing, attendance with the governance bodies and makes recommendations to the Strategic Account Review Board as required * Monitors safety and ensures compliance with Netlink Star Standards * Assures compliance of systems architecture of the Supplier Solution with the Technical Design Authority * Takes input from the Security Group on risks, issues, opportunities, and security assurance in relation to the Operate Service * Ensures the effective cooperation between Netlink Star’s subject matter experts and stakeholders and the Supplier teams involved in delivering the Services * Responds to issues raised by either Party, discusses, and decides on resolution actions * Monitors, reports and mitigate risks * Ensures post incident reviews are held and lessons are learned * Prioritises activities including investment priorities in agreement with the Services Steering Board * Ensures correct level of resourcing is maintained throughout the Term, flexing the Supplier’s or Netlink Star’s team size where needed * Review success and efficacy of Change Control Procedure and Change Approval Board * Approves/denies Non-Technical Changes from submitted Minor Change Notices or Significant Change Control Notices that affect the Operate Service. * Monitors the impact of all Changes that are set out in the Change Log in terms of e.g. cost, risk, benefit and ensures the analysis of the impact of those Changes is accurate and circulated and communicated where needed * Reviews new Project requests submitted by the Supplier, i.e. using the Project Template Sheet, before raising them at the Services Steering Board, ensuring they are raised in accordance with Schedule 6 including the proper use of the project template including fully comprehensive content. * Implements decisions made by the Services Steering Board   Agenda shall be determined by the Chair. | | | |
| **Scope of Authority** | The Service Management Review Meeting has authority to:   * Action changes, e.g. performance improvement plans, service improvement plans, in relation to the performance of the Services against Service Levels * Initiate and approve change to the Business as Usual Services, where there are no costs involved, otherwise the Change must go through the Change Approval Board in compliance with Schedule 8.2 * Prioritise implementation activities | | | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Service Owner(s), Netlink Star  Administrator: Service Manager, Netlink Star  Members:   * Service Owner(s), Netlink Star * Service Manager, Netlink Star * Programme Manager, Netlink Star * \*Security (Soc) Engineer, Netlink Star | * Service Delivery Manager, Supplier * Operations Lead, Supplier * Programme Manager (s), Supplier * Project Management Office (PMO) Analyst - Supplier | | **Minimum Level of attendance:**  At least two representatives for each Party to be present |
| **Frequency** | Monthly | | | |
| **Areas for review** | * General ticket performance, e.g. Number, type, trending * Spares and Repair performance * Software performance * Hardware performance * Deployed Assets Status (Hardware and Software) * Incident Restoration Reports and Resolution Status * Incident Best Practise and Shared Learning * Changes to Playbook and Fault Library | | * Software Licensing Overview including Patch Currency * Changes to Supplier third party software * Security Requirements * Review of planned works for future 6 months overview * Risks * SLAs * Changes from the Change Approval Board (including Change Log) * Actions arising | |
| **Inputs** | * Balanced Scorecards, Dashboard Reports * Ticket review logs * Incident Reports * Monitoring Reports * Obsolescence Reports * Asset Lists (Software and Hardware) | | * Software Licensing Reports * Product Strategy Report * Continuous Improvement Report * Spares report * Software / hardware requirements * Change Log | |
| **Outputs** | * Joint Risk Report * Agreed Future Works Log with prioritisation * Minutes for cascade to the team and Operational Management team * Updated Playbook / Fault Library * SLA overview and Incident details and Change Requirements for the Agreement | | | |
| **Escalation** | Services Steering Board | | | |
| **Related Meetings** | Programme and Project Delivery Review Meeting, Change Approval Board | | | |

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| **Charter** | **Technical Design Authority (TDA) Meeting** | |
| Purpose / Role / Agenda | Purpose: to provide governance for the Technical Designs to ensure compliance with Netlink Star’s strategic technical roadmap and designs.  Role: Reviews and approves/denies Systems Architecture designs or suggests alternative and/or new technical solutions  Agenda shall be determined by the Chair. | |
| **Scope of Authority** | The decision to approve or deny new technology/tools or systems architecture designs | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Head of the TDA, Netlink Star  Administrator: Senior Architect, Netlink Star  Members:   * Head of the TDA, Netlink Star * Principle Architect (s), Netlink Star * Senior Architect (s), Netlink Star * Senior Network Support Engineer, Netlink Star * Security Architect, Netlink Star (optional) * Architect, Supplier * Project Manager (s), Supplier * Service Delivery Manager, Supplier * Project Lead Architect, Supplier * Operations Lead, Supplier * During the transition and migration Phases the following are to roles are to attend: * Transition Manager, Supplier * Migration Manager, Supplier | **Minimum Level of Attendance**: At least two representatives for each Party to be present |
| **Frequency** | Monthly | |
| **Areas for review** | Technical Architecture Changes / Tool selection | |
| **Inputs** | Technical Proposals or Option Reports  Tool selection proposals  [Netlink Star technical architecture principals] | |
| **Outputs** | Decisions and justifications, proposed alternatives | |
| **Escalation** | Service Management Review Meeting | |
| **Related Meetings** | Data Centre Portfolio Board  Project Review Meeting | |

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| **Charter** | Data Centre Portfolio Board | | |
| Purpose / Role / Agenda | **Purpose:** to give Netlink Star, and in particular Netlink Star’s stakeholders, senior level guidance, leadership, and confidence in the overall delivery of the projects in accordance with Schedule 6 and to ensure that all Projects achieve their planned objectives.  **Role:**   * Tracks, reports and drives achievement in line with projected Project milestones, deliverables and their acceptance criteria * Resolves issues raised by all Parties, in particular, from Project Teams * Monitors Supplier’s performance in Project delivery in accordance with Schedule 6, and ensures that Projects achieve their planned benefits * Provides guidance and support to project teams and acts as an escalation route for decisions * Monitors the impact of all Changes that are raised at the Change Approval Board in terms of e.g. cost, risk, benefit and ensures the analysis of the impact of those Changes is accurate and circulated and communicated where needed in relation to Project Changes * Approves/denies Non-Technical Changes from submitted Minor Change Notices or Significant Change Control Notices that affect any in-flight Projects. * Provides commercial recommendations to the Service Management Review Meeting as required * Ensures that all governance bodies are functioning as intended or recommends changes as appropriate to the Services Steering Board * Takes input from the Security Group on risks, issues, opportunities, and security assurance in relation to Projects * Integrates the Projects with Netlink Star’s BAU teams as necessary, including managing dependencies * Risk Reporting and Mitigation as required, including ensuring integration of risk mitigation plans into Project Plans as needed * Holds Project Budgets and approves/denies any changes to those budgets   **Agenda** shall be determined by the Chair. | | |
| **Scope of Authority** | The Data Centre Portfolio Board has the authority to:   * make decisions regarding programmes and project changes within thresholds set for the project (scope, cost, time, quality, benefits, resourcing) * make changes to Project Budgets within thresholds set, escalating to the Services Steering Board where needed | | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Programme Manager or Service Owner, Netlink Star  Administrator: Programme Manager or Service Delivery Manager (Supplier)  Members:   * Programme Manager, Netlink Star * Service Owner, Netlink Star * Senior Architect, Netlink Star * Test Manager, Netlink Star * Security (SOC) Engineer, Netlink Star | * Service Owner, Supplier * Service Delivery Manager, Supplier * Programme Manager, Supplier * Project Manager(s), Supplier   During the transition and migration Phases the following are to roles are to attend:   * Transition Manager, Supplier * Migration Manager, Supplier * Migration Lead Architect, Supplier * Project Management Office (PMO) Analyst - Supplier | **Minimum Level of attendance**:  Supplier’s Programme Manager, and the Project Managers of each in-flight Project |
| **Frequency** | Monthly (or as agreed with Netlink Star as may be dependent on the number of Projects) | | |
| **Areas for review** | Project Milestones Delivery Dates, Project Changes, Benefits Realisation, Project Financial Situation | | |
| **Inputs** | Progress Reports, Milestone Chart, RAID, Project Financial Statement, List of Change Requests | | |
| **Outputs** | Minutes, Decisions, Programme status report | | |
| **Escalation** | Service Management Review Meeting if it impacts the service | | |
| **Related Meetings** | Technical Design Authority, Change Approval Board, Project Delivery Meeting(s), Services Steering Board | | |

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| **Charter** | **Project Review Meeting** | |
| Purpose / Role / Agenda | 1. **Purpose:** to manage the project delivery team and to feed progress into the Data Centre Portfolio Board in accordance with Schedule 6.   Role:   * Provides Team management for overall project delivery * Tracking, reporting, and providing support for milestone delivery including contract performance point (CPP) Milestones * Tracking performance against the Project Plan * Tracking benefits realisation * Managing RAID including reporting, reviewing and approving mitigation plans * Reviewing Project created Change Requests due to be put forward to the Change Approval Board ensuring there is a sufficient level of detail in the impact analysis * Reports on progress into the Data Centre Portfolio Board: milestone delivery, safety matters, compliance to standards, RAID including Opportunities, project finance, e.g. forecasted and actual spend, resourcing in a Project dashboard format agreed with the Programme and Project Delivery Review Chair * Tracks and reports on the Project budget, charges, payments and any other commercial elements of the Project, also in the Project dashboard format * Reports on progress of testing and acceptance   Agenda shall be determined by the Chair. | |
| **Scope of Authority** | Management of the project providing it is within scope, quality, time, and cost. | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Project Manager, Netlink Star  Administrator: Project Manager, Netlink Star  Members: To be agreed during individual Project initiation. | **Minimum Level of attendance**:  Project Manager, at least 50% of the total number of team members |
| **Frequency** | Weekly (or as agreed with the Data Centre Portfolio Board) | |
| **Areas for review** | Project Plans and Milestone Delivery, RAID log, Change Requests, Resource Management / Team Management, Budget Tracking, Safety and Compliance | |
| **Inputs** | Timesheets, Expenses, completed and estimated completion dates for activities | |
| **Outputs** | Progress Report/Project Dashboard, RAG Status, Project Plan & High-Level Plan on a Page, RAID, minutes | |
| **Escalation** | Data Centre Portfolio Board | |
| **Related Meetings** | Technical Design Authority, Change Approval Board, Data Centre Portfolio Board | |

**SCHEDULE** **8.2**

**CHANGE CONTROL PROCEDURE**

# Changes

## Changes shall be categorised as either Significant or Minor and either Technical or Non-Technical.

## The Supplier shall:

### ensure that Technical Changes shall require Netlink Star Technical Design Authority (TDA) approval if the change involves the introduction of new or modification of existing technology and/or technical solutions;

### shall keep a log of all Changes (“**Change Log**”) and ensure this is kept up to date with the associated documentation e.g. Minor Change Control Notice, Form of Significant Change Control Notice, Form of Significant Change Control Analysis, Form of Change Approval Notice. The Change Log shall contain, at a minimum, the following key information: date requested, date approved by TDA if required, date approved by the Change Approval Board (CAB), date implemented, cost of the change, impact overview, and current status;

### flag any compatibility issues that will or may arise in relation to any Change to Netlink Star as soon as the Supplier becomes aware of them (or ought reasonably to have become aware of them);

### use all reasonable endeavours to ensure when implementing Changes that the Services are not materially adversely impacted and noting that Supplier shall not be responsible for such adverse impact where documented the potential impact was documented by the Supplier in the applicable Change Control Analysis and the adverse impact occurs due to Netlink Star failing to address such potential impact prior to implementation.

## **Change Approval Board (CAB)**

### There shall be a single CAB to provide governance for any Technical Changes, both Minor Changes and Significant Changes.

### The CAB shall:

#### be responsible for recommending or making decisions on requested Changes;

#### meet weekly; and

#### allow the Supplier and the Customer to raise Change Requests.

### Netlink Star shall be responsible for setting up the CAB.

### The Supplier shall be responsible for maintaining the Change Log and all Change related documentation electronically in a document repository.

# Technical Minor Changes

## Either Netlink Star or the Supplier may propose a Minor Change by serving a Minor Change Control Notice on the other. A Minor Change Control Notice shall be in electronic form. The Supplier shall acknowledge receipt of all Minor Change Control Notices by responding via email within three (3) Working Days unless otherwise agreed in writing by the parties. Where applicable, the Minor Change Control Notice will include the cost estimate for implementing the proposed Minor Change. An example of a Minor Change could be the addition of a new Catalogue item.

## Netlink Star’s representative being Netlink Star’s Service Owner who is also a member of the Service Management Review Meeting and the Supplier’s Service Delivery Manager (together referred to here as the “**Key Representatives**”) shall be responsible for reviewing and agreeing Minor Changes. If either Key Representative, acting reasonably, believes that a Change has been wrongly categorised as a Minor Change it shall notify the other in writing and the Minor Change shall, subject to Netlink Star’s written approval, be re-classified as a Significant Change. Either Party may issue a Significant Change Control Notice in respect of a Change that has been reclassified as a Significant Change, following which the provisions of Paragraph 3 will apply.

## A Minor Change will be considered to be agreed by both Parties once the Minor Change Control Notice requesting it has been signed by or on behalf of both Key Representatives.

## Each Party shall procure that its Key Representative Supplier’s Service Delivery Manager and Netlink Star’s Service Owner (or its delegate) expedites the review and agreement of Minor Changes. The Supplier will not unreasonably withhold or delay its consent to a Minor Change requested by Netlink Star. Netlink Star will not unreasonably withhold or delay its consent to a Minor Change requested by the Supplier.

## If the Parties fail to agree a Minor Change this shall be escalated in accordance with Schedule 8.3 (Governance). If following such escalation the Parties agree that the Change should be a Significant Change, either Party may serve a Significant Change Control Notice in respect of that Minor Change and the relevant Minor Change shall be re‑classified as a Significant Change for that purpose.

## The Supplier shall complete Minor Changes (anything other than a Significant Change) with notification to Netlink Star of the change.

# Technical Significant Changes

## Either Netlink Star or the Supplier may propose a Significant Change by serving a Significant Change Control Notice on the other.

## Where the Supplier serves a Significant Change Control Notice it shall be accompanied by a Change Control Analysis and an Estimate in respect of the proposed Significant Change. If Netlink Star, acting reasonably, requests that the Change be reclassified to a Minor Change, the Parties shall meet to discuss the request in good faith and use all reasonable endeavours to agree such reclassification.

## If Netlink Star serves a Significant Change Control Notice the Supplier shall produce a Change Control Analysis and an Estimate in respect of the relevant Significant Change and serve both on Netlink Star within ten (10) Working Days of service of the relevant Significant Change Control Notice (unless the Parties agree a different period in writing). The Supplier shall provide Netlink Star with any information reasonably requested by Netlink Star in relation to any Change Control Analysis or Estimate.

## Netlink Star may notify the Supplier in writing that it agrees with a Change Control Analysis and Estimate in which case the relevant Significant Change shall be documented and implemented in accordance with the provisions of Paragraph 4.5. If Netlink Star does not notify the Supplier that it agrees with the Change Control Analysis and Estimate within five (5) Working Days of receipt of them the Parties shall meet as soon as reasonably practical after expiry of such period and at that meeting shall seek to agree the contents of both.

## If the Parties have not agreed the contents of the relevant Change Control Analysis and Estimate within ten (10) Working Days of service of them on Netlink Star then the Change Control Analysis and Estimate shall be amended by Netlink Star so as to incorporate all of Netlink Star’s requirements and comments and a copy of the revised Change Control Analysis and Estimate will be delivered by Netlink Star to the Supplier. The Parties will meet within ten (10) Working Days of service of the revised Change Control Analysis and Estimate on the Supplier and at that meeting shall seek to agree the revised Change Control Analysis and Estimate in relation to the relevant Significant Change. If, following that further meeting, the Parties agree the contents of the Change Control Analysis and Estimate the relevant Significant Change shall be documented and implemented in accordance with the provisions of Paragraph 6.6.

## If the Parties have not agreed the contents of the relevant Change Control Analysis and Estimate within twenty (20) Working Days of service of the revised Change Control Analysis and Estimate on the Supplier or such other timeframe agreed by the Parties then (unless otherwise agreed in writing):

### either Party may refer the Change Control Analysis (as amended by Netlink Star pursuant to Paragraph 2.5) (unless otherwise agreed in writing) to the Dispute Resolution Procedure in Schedule 8.3; and

### either Party may refer the Estimate to the Dispute Resolution Procedure in Schedule 8.3.

## Notwithstanding Paragraph 3.6.1, Netlink Star may at its discretion and at any time escalate any Significant Change to the relevant governance boards in accordance with Schedule 8.3 (Governance).

## Either Party may request at any time that a Significant Change be downgraded to a Minor Change. The Parties shall meet in good faith to discuss such request and shall, if appropriate, use all reasonable endeavours to agree to the reclassification.

## Once a Significant Change has been approved, the target for implementation of that Significant Change shall be 15 Working Days from the date of approval unless otherwise agreed by the Parties.

# Non-Technical Changes

## Non-Technical Changes shall be any Change not classified as a Technical Change.

## These Changes use either the Significant Change Control Notice or Minor Change Notice served by either Party and follow paras 2 and 3 respectively. The differences being Non-Technical Changes:

### do not go through the Technical Design Authority; and

### shall be approved at either the Service Management Review Meeting if related to Services in operation, or approved at the Data Centre Portfolio Board for in-flight Projects.

# Urgent Changes

## A Significant Change Control Notice or Minor Change Notice served by either Party may specify that the requested Change is an Urgent Change in which case the provisions of this Paragraph 5 will apply.

## If the Supplier serves a Significant Change Control Notice or Minor Change Notice in respect of an Urgent Change it shall, if applicable, simultaneously serve a Change Control Analysis and Estimate on Netlink Star. The Supplier will amend such Change Control Analysis and Estimate to incorporate any comments made by or on behalf of Netlink Star within one (1) Working Day of receipt of such comments and will, if requested to do so by Netlink Star, commence implementation of such Urgent Change in accordance with the Change Control Analysis and Estimate (as revised) immediately and shall endeavour to complete such Urgent Change within one (1) Working Day (or such longer period as is reasonable in all the circumstances), but if the Supplier cannot implement the Urgent Change within two (2) Working Days, the Supplier shall notify Netlink Star as soon as practicable and shall promptly provide a time and materials estimate for implementation of the Urgent Change as soon as possible without unreasonable delay. Upon consent from Netlink Star, the Supplier will immediately commence implementation of the Urgent Change on such time and materials basis, provided that where the time and materials charges are likely to exceed the estimate, the Supplier shall notify Netlink Star as soon as reasonably practicable Netlink Star’s consent will be required to proceed. Where Netlink Star elects not to proceed, the Supplier shall not be responsible for any consequences resulting from failure to implement the Urgent Change save where the Urgent Change is due to the Supplier's default. Subject to Paragraph 5.4, no Urgent Change requested by the Supplier shall be implemented unless and until Netlink Star has given its written consent (such consent to be given at Netlink Star’s sole discretion).

## If Netlink Star serves a Significant Change Control Notice or Minor Change Notice in respect of an Urgent Change, if requested the Supplier shall prepare a Change Control Analysis and Estimate within one (1) Working Day (or such longer period as is reasonable in all the circumstances, but in any event not more than two (2) Working Days) after service of the Significant Change Control Notice in respect of that Urgent Change. The Supplier will amend the Change Control Analysis and Estimate to incorporate any comments made by or on behalf of Netlink Star within one (1) Working Day of receipt of them. The Supplier shall commence implementation of any such Urgent Change in accordance with the relevant Change Control Analysis and Estimate (as amended in accordance with this Paragraph 3.3) immediately and shall endeavour to complete such Urgent Change within one (1) Working Day (or such longer period as is reasonable in all the circumstances) after receipt of Netlink Star’s comments upon them but if the Supplier cannot implement the Urgent Change within two (2) Working Days, the Supplier shall notify Netlink Star as soon as practicable and shall promptly provide a time and materials estimate for implementation of the Urgent Change as soon as possible without unreasonable delay. Upon consent from Netlink Star, the Supplier will immediately commence implementation of the Urgent Change on such time and materials basis, provided that where the time and materials charges are likely to exceed the estimate, the Supplier shall notify Netlink Star as soon as reasonably practicable and Netlink Star’s consent will be required to proceed. Where Netlink Star consents to the Supplier proceeding, Supplier shall not be responsible for any adverse consequences resulting from the implementation of the Urgent Change save where (a) such consequences are due to the Supplier’s breach; or (b) Supplier should reasonably have foreseen the adverse consequences taking into account the information available at the time. Where Netlink Star elects not to proceed, the Supplier shall not be responsible for any consequences resulting from failure to implement the Urgent Change save where the Urgent Change is due to the Supplier's default i.e. breach. The Supplier’s consent is required for the implementation of an Urgent Change requested by Netlink Star (such consent not to be unreasonably withheld or delayed).

## Without prejudice to clause 38,if the Supplier requests an Urgent Change to address a change in Applicable Law then Netlink Star’s consent pursuant to Paragraph 5.2 shall not be unreasonably withheld or delayed but shall be required prior to implementation of that Urgent Change. Netlink Star shall notify the Supplier in writing as to whether or not it consents to the relevant Urgent Change within two (2) Working Days of service of the relevant Change Control Analysis and Estimate and the Supplier shall implement such Urgent Change in accordance with the relevant Change Control Analysis and Estimate (as amended to reflect Netlink Star’s comments under Paragraph 5.2**),** within two (2) Working Days (or such longer period as is reasonable in all the circumstances, but in any event not longer than 3 Working Days) after Netlink Star gives such consent.

# General

## Subject to Paragraph 6.2, the Parties may both propose Changes, and Netlink Star may require a Change.

## If the Supplier, acting reasonably, objects to a Change required by Netlink Star under Paragraph 6.1, the matter shall be escalated directly to the Service Management Review Meeting in accordance with clause 13.

## Each Party shall bear its own costs and expenses (and those of any third party retained by it) incurred in relation to the investigation, discussion, agreement and for other resolution of any Change for up to fifteen (15) Working Days of effort per month, or the equivalent thereof. Beyond this Supplier shall be entitled to be paid its reasonable costs and expenses.

## The Supplier will promptly provide to Netlink Star without undue delay any information at hand or that they can reasonably acquire that is reasonably required by Netlink Star in order that it may evaluate any Change. Where such information is not at hand or readily available the Supplier shall discuss with Netlink Star the most appropriate means of obtaining said information.

## The Supplier shall at all times act reasonably and properly in relation to all Changes and the preparation of all Change Control Documents and shall also take reasonable steps to minimise the costs of each Change, the time taken to implement each Change and disruption to the Services and Netlink Star or other service recipients associated with making each Change, including by using reasonable endeavours to:

### propose ways to reduce the charges associated with implementing the Change, e.g. if the Change has been carried out before;

### minimise any increase in the ongoing charges, if an increase is required as a result of the Change;

### maximise any reduction in the ongoing charges that can be achieved as a result of the Change;

### minimise the internal costs of Netlink Star and other service recipients associated with, or arising from, each Change;

### ensure that there is a viable “back out plan” to minimise the impact of any Change that does not occur as planned;

### continue to provide the Services in accordance with the terms of this Agreement (including the Service Levels) at all times; and

### calculate the cost of implementation any Change by reference to Schedule 7*.*

## Whenever a Significant Change is agreed or deemed to be agreed pursuant to Paragraph 2.4 the Supplier shall prepare two copies of a Change Approval Notice to be signed by the Supplier and then returned to Netlink Star (who shall sign both copies and return one to the Supplier).

## Each Party:

### shall ensure the Change Approval Notice is signed by someone with the appropriate level of authority; and

### acknowledges and agrees that any Change Approval Notice not signed by someone with the appropriate level of authority shall be void.

## Upon Changes being approved or deemed approved pursuant to this Schedule 8.2:

### this Agreement will be taken to have been amended in accordance with the Change Control Documents;

### each Party will notify details of the relevant Change to all relevant staff and managers;

### each Party must co-operate with the other and provide all reasonable assistance and information to the other that is needed to implement the relevant Change; and

### the Parties must implement the relevant Change in accordance with this Agreement (as amended by the Change Control Documents).

## Until such time as a Change Approval Notice is signed by or on behalf of the Parties in respect of a Significant Change, the Key Representatives have both agreed to a Minor Change or Netlink Star has given its consent to an Urgent Change the Supplier shall, unless otherwise agreed in writing, continue to supply the Services as if the Change Control Notice in respect of the relevant Change had not been issued.

## All discussions that take place in relation to a Significant Change prior to the signature by both the Parties of a Change Approval Notice (or in respect of a Minor Change prior to both Key Representations agreeing to that Minor Change) shall be without prejudice to the rights of either Party.

## The Supplier acknowledges that engaging in the Change Control Procedure (including preparing Change Control Analyses and Estimates) is an integral part of the Services and will not cause any delay or degradation to the provision of the other Services, noting that engaging in the Change Control Procedure in a reasonable manner and in good faith may be necessary to avoid a delay or degradation of the Services e.g. end of life equipment, nor will such participation in the Change Control Procedure itself entitle it to any additional payment subject to Paragraph 6.3 above.

## Either Party may withdraw a Significant Change Control Notice submitted by it at any time until the relevant Significant Change has been agreed or deemed to be agreed by both Parties in accordance with Paragraph 2.

## The following shall not comprise a Change for the purposes of this Agreement:

### any change to the Services or the outputs from the Services that Netlink Star has a right to require pursuant to Schedule 2 or which it is otherwise anticipated in this Agreement that the Supplier may be required to make in the ordinary course of providing the Services; and

### the process for agreeing new Project Services and Project Sheets.

## Each Party shall keep the other informed in writing of its current authorised representatives from time to time for the purposes of the Change Control Procedure.

ANNEX 8.2A

**FORM OF SIGNIFICANT CHANGE CONTROL NOTICE**

|  |  |
| --- | --- |
| **Change Request Number** | [*UNIQUE ID NUMBER OF REQUEST*] |
| **Originator:** | [*NAME OF INDIVIDUAL*] |
| **Originator’s Organisation:** | [*NETLINK STAR/SUPPLIER*] |
| **Date of Notice:** |  |
| **Proposed Significant Change:** | [*DESCRIBE CHANGE*] |
| **Reasons for Significant Change:** | [*DESCRIBE RATIONALE FOR CHANGE*] |
| **Proposed timetable for implementation:** | [*DESIRED IMPLEMENTATION DATE*] |
| **Urgent Change:** | [*YES\**] [*NO\**] \*Delete as appropriate |

ANNEX 8.2B

**FORM OF SIGNIFICANT CHANGE CONTROL ANALYSIS**

|  |  |
| --- | --- |
| **Change Request Number** | [*UNIQUE ID NUMBER OF REQUEST*] |
| **Proposed Significant Change:** | [*DESCRIBE CHANGE*] |
| **Date of Significant Change Control Notice:** |  |
| **Date of Change Control Analysis:** |  |
| **Impact of the implementation of the Change on the Services:** | [*DESCRIBE IMPACT OF IMPLEMENTATION OF THE CHANGE. NB: THIS SHOULD INCLUDE ANY CHANGES TO THE SERVICES THAT WOULD RESULT FROM THE CHANGE (OTHER THAN AMENDMENTS TO THE SERVICE LEVELS), THE RISKS ASSOCIATED WITH IMPLEMENTING THE CHANGE AND HOW THESE COULD BE MITIGATED*] |
| **Back-out plan to revert to original Services:** |  |
| **Impact of the implementation of the Change on Supplier’s cost base for the Services:** | *[TO PROVIDE TRANSPARENCY OF IMPACT ON SUPPLIER’S COST BASE]* |
| **Details of any changes to the Service Levels that would result from implementation of the Change:** | *[DESCRIBE ALL CHANGES TO THE SERVICE LEVELS THAT WOULD RESULT FROM IMPLEMENTATION OF THE CHANGE]* |
| **Deliverables required from the Change (if any) and testing:** | *[SPECIFY ANY REQUIRED DELIVERABLES, INCLUDING FULL SPECIFICATIONS, AND TESTING REQUIREMENTS]* |
| **Timetable for implementing Changes (including impacts on the timing of performance of any other obligations and payment profile):** | *[INCLUDE TIMETABLE, SEPARATE DESCRIPTION OF IMPACTS AND PAYMENT PROFILE]* |
| **Proposed Key Supplier Personnel to be involved in implementing Change;** | *[SPECIFY THE NUMBER/CATEGORY OF SUPPLIER PERSONNEL TO BE INVOLVED IN IMPLEMENTING CHANGE AND IDENTIFY ANY [KEY SUPPLIER PERSONNEL] INCLUDED IN THE CHANGE] [Only applicable for T&M projects]* |
| **Number/Category of Netlink Star Personnel to be involved in implementing Change:** | *[SPECIFY THE NUMBER/CATEGORY OF NETLINK STAR PERSONNEL TO BE INVOLVED IN IMPLEMENTING CHANGE] [Only for T&M projects]* |
| **Summary of the likely impact of Netlink Star’s rejection of the Change Control Request:**  **[NB only required if the Supplier served the Change Control Notice]** | *[DESCRIBE THE LIKELY IMPACT OF NETLINK STAR’S REJECTION OF THE CHANGE CONTROL REQUEST]* |
| **Acceptance Criteria:** |  |
| **Netlink Star Dependencies** | *[LIST WHAT IS REQUIRED OF NETLINK STAR]* |
| **Other Prerequisites** | *[LIST ANYTHING ELSE NEEDED, eg. SOFTWARE LICENCES]* |
| **Any other Relevant Information:** | *[DESCRIBE ANY OTHER FACTORS OR INFORMATION THAT IS RELEVANT TO THE CONSIDERATION OF THE CHANGE]* |

ANNEX 8.2C

**FORM OF CHANGE APPROVAL NOTICE**

|  |  |  |
| --- | --- | --- |
| **Change Request Number:** | [*UNIQUE ID NUMBER OF REQUEST*] | |
| **Proposed Significant Change:** | [*DESCRIBE CHANGE*] | |
| **Date of Significant Change Control Notice:** |  | |
| **Date of Change Control Analysis:** |  | |
| **Amendments required to the Agreement:** | [*DESCRIBE NECESSARY CHANGES*] | |
| **Additional Comments:** | [*INSERT ADDITIONAL COMMENTS*] | |
| Signature of Supplier: |  | Date: |
| Signature of Netlink Star: |  | Date: |

ANNEX 8.2D

**MINOR CHANGE CONTROL NOTICE**

|  |  |
| --- | --- |
| **Minor Change Number:** | [*UNIQUE ID NUMBER*] |
| **Originator:** | [*NAME OF INDIVIDUAL*] |
| **Originator’s Organisation:** | [*NETLINK STAR/SUPPLIER*] |
| **Date of Notice:** |  |
| **Proposed Minor Change:** | [*DESCRIBE CHANGE*] |
| **Proposed Minor Change:** | [*DESCRIBE CHANGE*] |
| **Reasons for Minor Change:** | [*DESCRIBE RATIONALE FOR CHANGE*] |
| **Impacts, risks and costs of the Minor Change:** | [*DETAIL ALL RISKS, COSTS AND IMPACTS LIKELY TO BE ASSOCIATED WITH THE MINOR CHANGE*] |
| **Back-out plan to revert to original Services:** |  |
| **Impact of the implementation of the Change on Supplier’s cost base for the Services:** | *[TO PROVIDE TRANSPARENCY OF IMPACT ON SUPPLIER’S COST BASE]* |
| **Proposed Timetable:** | [*SUGGESTED TIMETABLE*] |
| **Acceptance Criteria and required testing:** | [*DETAIL ANY PROPOSED ACCEPTANCE CRITERIA*] |

ANNEX 8.2E

**CHANGE APPROVAL BOARD (CAB) CHARTER**

|  |  |  |
| --- | --- | --- |
| **Charter** | **Change Approval Board (CAB)** | |
| Purpose / Role / Agenda | Purpose: to review and approve Technical Change Requests in accordance with this Schedule 8.2.  Role:   * Reviews Change Requests prior to the meeting * Approves Technical Change Requests (both Minor and Significant Change Requests) * Assess the impact of the change, its feasibility, and commercial and business value * Help determine the prioritisation and timeline for Changes * Documents and communicates the CAB meeting agenda before CAB meetings and decisions afterwards * Contribute by suggesting improvements to the change processes and/or forms * Out-of-scope: Non-Technical Changes, new project requests   Agenda shall be determined by the Chair | |
| **Scope of Authority** | The decision to approve or deny new Change Requests | |
| **Membership / Minimum Attendance Level (if relevant)** | Chair: Service Assurance Manager, Netlink Star  Administrator: Supplier Manager/Contract Manager, Netlink Star  Members:  -      Service Owner, Netlink Star  -      Service Manager, Netlink Star  -      Programme Manager, Netlink Star  -      Finance Business Partner, Netlink Star  -      Project Manager(s), Netlink Star  -      Security representative, Netlink Star (optional)  -      Account Executive, Supplier  -      Service Owner, Supplier  -      Service Delivery Manager, Supplier  -      Project Manager, Supplier | **Minimum Level of Attendance**: At least two representatives from each Party to be present |
| **Frequency** | Weekly | |
| **Areas for review** | Technical Change Requests | |
| **Inputs** | Change Forms (Change Notices and Change Analysis) | |
| **Outputs** | Decisions and justifications, requests for further information, proposed alternatives (if applicable) | |
| **Escalation** | Service Management Review Meeting, or the Data Centre Portfolio Board, depending on whether the Change is related to the Service or a Project. | |
| **Related Meetings** | Data Centre Portfolio Board, Project Review Meeting, Service Management Review Meeting. | |

**SCHEDULE 8.3**

**DISPUTE RESOLUTION PROCEDURE**

#### **1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| **“CEDR”** | the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU; |
| **“Counter Notice”** | has the meaning given in Paragraph 7.2 of Schedule 8.3 (Dispute Resolution Procedure); |
| **“Expert”** | in relation to a Dispute, a person appointed in accordance with Paragraph 6.2 of Schedule 8.3 (Dispute Resolution Procedure) to act as an expert in relation to that Dispute; |
| **“Expert Determination”** | determination by an Expert in accordance with Paragraph 6 of Schedule 8.3 (Dispute Resolution Procedure); |
| **“Mediation Notice”** | has the meaning given in Paragraph 4.2 of Schedule 8.3 (Dispute Resolution Procedure); |
| **“Mediator”** | the independent third party appointed in accordance with Paragraph 5.1 of Schedule 8.3 (Dispute Resolution Procedure) to mediate a Dispute; |
| **“Multi-Party Dispute”** | a Dispute which involves the Parties and one (1) or more Related Third Parties; |
| **“Multi-Party Dispute Representatives”** | has the meaning given in Paragraph 9.6 of Schedule 8.3 (Dispute Resolution Procedure); |
| **“Multi-Party Dispute Resolution Board”** | has the meaning given in Paragraph 9.6 of Schedule 8.3 (Dispute Resolution Procedure); |
| **“Related Third Party”** | a party to:   1. another contract with Netlink Star or the Supplier which is relevant to this Agreement; or 2. a Sub-contract; and |
| **“Supplier Request”** | a notice served by the Supplier requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute. |

# DISPUTE NOTICES

## If a Dispute arises then:

### the provisions of Schedule 8.1 (Governance) shall apply to a Dispute relating to:

(a)Operate Services, such that these are sought to be resolved in accordance with Paragraph 1.7 (Operational Governance) of Schedule 8.1 (Governance);

(b) Projects, such that these are sought to be resolved in accordance with Paragraph 1.8 (Project Governance) of Schedule 8.1 (Governance); and

(c) Technical Designs, such that these are sought to be resolved in accordance with Paragraph 1.9 (Technical Design Governance) of Schedule 8.1 (Governance);

### for any other Dispute, or where a Dispute is escalated in accordance with Schedule 8.1 (Governance), the Netlink Star Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute in accordance with Paragraph 1.6 (Strategic Governance) of Schedule 8.1 (Governance); and

### if such attempts are not successful within a reasonable period, not being longer than 20 Working Days, either Party may issue to the other a Dispute Notice.

## A Dispute Notice:

### shall set out:

(a) the material particulars of the Dispute;

(b) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and

(c) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the reason why; and

* + 1. may specify in accordance with the requirements of Paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of Netlink Star) or considers (in the case of the Supplier) that the Dispute is a Multi-Party Dispute, in which case Paragraph 2.3 shall apply.

2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a Multi-Party Dispute pursuant to Paragraph 2.2.2, then:

2.3.1 if it is served by Netlink Star it shall be treated as a Multi-Party Procedure Initiation Notice; and

2.3.2 if it is served by the Supplier it shall be treated as a Supplier Request, and in each case the provisions of Paragraph 9 shall apply.

2.4 Subject to Paragraphs 2.5 and 3.2 and so long as Netlink Star has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:

2.4.1 first by reference to the applicable meeting as identified in Schedule 8.1 (Governance);

2.4.2 then by commercial negotiation (as prescribed in Paragraph 4);

2.4.3 then, if either Party serves a Mediation Notice, by mediation (as prescribed in Paragraph 5); and

2.4.4 lastly by recourse to arbitration (as prescribed in Paragraph 7) or litigation (in accordance with clause 50 (Governing Law and Jurisdiction).

2.5 Specific issues shall be referred to Expert Determination (as prescribed in Paragraph 6) where specified under the provisions of this Agreement and may also be referred to Expert Determination where otherwise appropriate as specified in Paragraph 6.1.

2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under Paragraph 8.

#### 3. **EXPEDITED DISPUTE TIMETABLE**

3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within five (5) Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of Netlink Star.

3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of Paragraph 3.1 or is otherwise specified under the provisions of this Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable Paragraphs:

3.2.1 in Paragraph 4.2.3, ten (10) Working Days;

3.2.2 in Paragraph 5.1, ten (10) Working Days;

3.2.3 in Paragraph 6.2, five (5) Working Days; and

3.2.4 in Paragraph 7.2, ten (10) Working Days.

3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree such an extension within two (2) Working Days after the applicable deadline has passed, Netlink Star may determine a revised deadline, provided that it is no less than, as applicable:

3.3.1 five (5) Working Days before the end of the applicable period of time specified in the Paragraphs 4.2.3, 5.1 or 7.2; or

3.3.2 two (2) Working Days before the end of the period of time specified in Paragraph 6.2,

and any agreed or determined extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If Netlink Star fails to set such a revised deadline in accordance with the above, the use of the Expedited Dispute Timetable shall cease and the normal timescales shall apply from that point onwards.

#### **4. COMMERCIAL NEGOTIATION**

4.1 Following the service of a Dispute Notice, then, so long as Netlink Star has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, and following consideration by the relevant Governance body or bodies**,** Netlink Star and the Supplier shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between Netlink Star’s Procurement Manager and the Supplier’s Commercial Manager.

4.2 If:

4.2.1 either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution;

4.2.2 the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this Paragraph 4; or

4.2.3 the Parties have not settled the Dispute in accordance with Paragraph 4.1 within thirty (30) Working Days of service of the Dispute Notice, either Party may serve a written notice to proceed to mediation in accordance with Paragraph 5 (a “**Mediation Notice**”).

#### 5. **MEDIATION**

5.1 If a Mediation Notice is served, the Parties shall attempt to resolve th’ dispute in accordance with CEDR's Model Mediation Agreement which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).

5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within twenty (20) Working Days from (and including) the service of a Mediation Notice then either Party may apply to CEDR to nominate such a person.

5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.

5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

#### **6. EXPERT DETERMINATION**

6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with Paragraph 4 or, if applicable, mediation in accordance with Paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.

6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days of the relevant request made pursuant to Paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:

6.2.1 if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);

6.2.2 if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or

6.2.3 if the Dispute relates to a matter of a technical nature not falling within Paragraphs 6.2.1 or 6.2.2, on the instructions of the president (or equivalent) of:

(a) an appropriate body agreed between the Parties; or

(b) if the Parties do not reach agreement on the relevant body within fifteen (15) Working Days of the relevant request made pursuant to Paragraph 6.1, such body as may be specified by the President of the Law Society on application by either Party.

6.3 The Expert shall act on the following basis:

6.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly an’ impartially;

6.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;

6.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;

6.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;

6.3.5 the process shall be conducted in private and shall be confidential; and

6.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

#### **7. ARBITRATION**

7.1 Subject to compliance with its obligations under Paragraph 4.1 and to the provisions of Paragraph 6, Netlink Star may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of Paragraph 7.5.

7.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on Netlink Star of its intentions and Netlink Star shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a “**Counter Notice**”) on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with Paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Supplier shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.

7.3 If Netlink Star serves a Counter Notice, then if the Counter Notice requires the Dispute to be:

7.3.1 referred to arbitration, the provisions of Paragraph 7.5 shall apply; or

7.3.2 subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Supplier shall not commence arbitration proceedings.

7.4 If Netlink Star does not serve a Counter Notice within the fifteen (15) Working Day period referred to in Paragraph 7.2, the Supplier may either commence arbitration proceedings in accordance with Paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.

7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to Paragraphs 7.1 to 7.4:

7.5.1 the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to Paragraphs 7.5.5, 7.5.6 and 7.5.7);

7.5.2 the arbitration shall be administered by the LCIA;

7.5.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

7.5.4 if the Parties fail to agree the appointment of three arbitrators within ten (10) Working Days from the date on which arbitration proceedings are commenced or if the persons appointed are unable or unwilling to act, the arbitrators shall be appointed by the LCIA;

7.5.5 the chair of the arbitral tribunal shall be British;

7.5.6 the arbitration proceedings shall take place in London and in the English language; and

7.5.7 the seat of the arbitration shall be London.

#### **8. URGENT RELIEF**

8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

8.1.1 for interim or interlocutory remedies in relation to this Agreement or infringement by the other Party of that Party’s Intellectual Property Rights; and/or

8.1.2 where compliance with Paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

#### **9. MULTI-PARTY DISPUTES**

9.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this Paragraph 9 (the “**Multi-Party Dispute Resolution Procedure**”).

9.2 If at any time following the issue of a Dispute Notice, Netlink Star reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then Netlink Star shall be entitled to determine that the Dispute is a Multi-Party Dispute and to serve a notice on the Supplier which sets out Netlink Star’s determination that the Dispute is a Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure, such notice a “**Multi-Party Procedure Initiation Notice**”.

9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with Paragraph 7, the Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Supplier may serve a Supplier Request on Netlink Star.

9.4 Netlink Star shall (acting reasonably) consider each Supplier Request and shall determine within five (5) Working Days whether the Dispute is:

9.4.1 a Multi-Party Dispute, in which case Netlink Star shall serve a Multi-Party Procedure Initiation Notice on the Supplier; or

9.4.2 not a Multi-Party Dispute, in which case Netlink Star shall serve written notice of such determination upon the Supplier and the Dispute shall be treated in accordance with Paragraphs 3 to 8.

9.5 If Netlink Star has determined, following a Supplier Request, that a Dispute is not a Multi-Party Dispute, the Supplier may not serve another Supplier Request with reference to the same Dispute.

9.6 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the “**Multi-Party Dispute Resolution Board**”) comprising representatives from the following parties to the Multi-Party Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the Multi-Party Dispute:

9.6.1 Netlink Star;

9.6.2 the Supplier;

9.6.3 each Related Third Party involved in the Multi-Party Dispute; and

9.6.4 any other representatives of any of the Parties and/or any Related Third Parties whom Netlink Star considers necessary, (together “**Multi-Party Dispute Representatives**”).

9.7 The Parties agree that the Multi-Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:

9.7.1 the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-

Party Dispute Resolution Board in respect of the Multi-Party Dispute;

9.7.2 the Multi-Party Dispute Resolution Board shall first meet within ten (10) Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within five (5) Working Days of service of the relevant Multi-Party Procedure Initiation Notice, at the time and place specified by Netlink Star, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and

9.7.3 in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

9.8 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within twenty five (25) Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

9.8.1 either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case Paragraph 5 shall apply;

9.8.2 either Party may request that the Multi-Party Dispute is referred to an expert in which case Paragraph 6 shall apply; and/or

9.8.3 subject to Paragraph 9.9, Paragraph 7 shall apply to the Multi-Party Dispute,

and in each case references to the “**Supplier**” or the “**Parties**” in such provisions shall include a reference to all Related Third Parties.

9.9 If a Multi-Party Dispute is referred to arbitration in accordance with Paragraph 7 or a Dispute becomes a Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, Netlink Star or the Supplier may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub-contractor, by the Supplier.

**SCHEDULE 8.4**

**REPORTS AND RECORDS PROVISIONS**

#### **1. TRANSPARENCY REPORTS**

1.1 Not used

#### **2. OTHER REPORTS**

2.1 Netlink Star may, from time to time, require the Supplier to provide to Netlink Star any or all of the following reports:

2.1.1 delay reports;

2.1.2 reports relating to Testing and tests carried out under Schedule 2.6 (Security Management) and Schedule 8.6 (Business Continuity and IT Service Continuity);

2.1.3 reports which the Supplier is required to supply as part of the Management Information;

2.1.4 annual reports on the Insurances;

2.1.5 security reports; and

2.1.6 Force Majeure Event reports.

#### **3. RECORDS**

3.1 The Supplier shall retain and maintain all the records (including superseded records) referred to in Paragraph 1 and Annex 8.4B (together “**Records**”):

3.1.1 in accordance with the requirements of The National Archives and Good Industry Practice;

3.1.2 in chronological order;

3.1.3 in a form that is capable of audit; and

3.1.4 at its own expense.

3.2 The Supplier shall make the Records available for inspection to Netlink Star on request, subject to Netlink Star giving reasonable notice.

3.3 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to Netlink Star.

3.4 The Supplier shall, during the Term and a period of at least seven (7) years following the expiry or termination of this Agreement, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all Records.

3.5 Records that contain financial information shall be retained and maintained in safe storage by the Supplier for a period of at least seven (7) years after the expiry or termination of this Agreement.

3.6 Without prejudice to the foregoing, the Supplier shall provide Netlink Star:

3.6.1 no later than 150 Working Days after the end of each accounting reference period of the Supplier part or all of which falls during the Term, the Supplier's audited accounts and if applicable, of the consolidated audited accounts of the Supplier and its Affiliates in respect of that period together with copies of al’ related directors' and auditors' reports and all other notices/circulars to shareholders.

**ANNEX 8.4B**

**RECORDS TO BE KEPT BY THE SUPPLIER**

The records to be kept by the Supplier are as follows:

1. This Agreement, its Schedules and all amendments to such documents.
2. All other documents which this Agreement expressly requires to be prepared.
3. Records relating to the appointment and succession of the Supplier Representative and each member of the Key Personnel.
4. Notices, reports and other documentation submitted by any Expert.
5. All operation and maintenance manuals and/ or Run Books prepared by the Supplier for the purpose of maintaining the provision of the Services and the underlying IT Environment and Supplier Equipment.
6. Documents prepared by the Supplier or received by the Supplier from a third party relating to a Force Majeure Event.
7. All formal notices, reports or submissions made by the Supplier to the Netlink Star Representative in connection with the provision of the Services.
8. All certificates, licences, registrations or warranties in each case obtained by the Supplier in relation to the provision of the Services.
9. Documents prepared by the Supplier in support of claims for the Charges.
10. Documents submitted by the Supplier pursuant to the Change Control Procedure.
11. Documents submitted by the Supplier pursuant to invocation by it or Netlink Star of the Dispute Resolution Procedure.
12. Documents evidencing any change in ownership or any interest in any or all of the shares in the Supplier, a Key Subcontractor, where such change may cause a change of Control; and including documents detailing the identity of the persons changing such ownership or interest.
13. Invoices and records related to VAT sought to be recovered by the Supplier.
14. Records required to be retained by the Supplier by Law, including in relation to health and safety matters and health and safety files and all consents.
15. All documents relating to the insurances to be maintained under this Agreement and any claims made in respect of them.
16. All journals and audit trail data referred to in Schedule 2.6 (Security Management).
17. All other records, notices or certificates required to be produced and/or maintained by the Supplier pursuant to this Agreement.

**SCHEDULE 8.5**

**EXIT MANAGEMENT**

# Objectives

## The primary objective of the Exit Plan is to ensure business continuity upon expiry or termination (including Partial Termination) of the Agreement. The Exit Plan will set out the process for transfer from the Supplier to Netlink Star and/or a Replacement Supplier of the responsibilities, Services, staff (solely by application of law), and any other items or information which the Parties agree is necessary to ensure that Netlink Star and/or Replacement Supplier is able to operate the Replacement Services with effect from the Termination Date or Partial Termination Date (as applicable) (“**Exit Date**”) of the Agreement for any reason. To the extent that specific Confidential Information is set out and/or agreed as being required to be disclosed under the Exit Plan and/or this Schedule, that requirement shall override clauses 14 and 24 to the extent of any inconsistency. During the Exit Assistance Period, the Services will be provided at no detriment to the Service Levels, save to the extent that the Parties have agreed otherwise.

## The Parties acknowledge that the migration of the Services from the Supplier to Netlink Star or the Replacement Supplier may be phased, as reasonably required by Netlink Star, such that certain of the Services are handed over before others.

# Exit Plan

## Netlink Star and the Supplier shall designate a representative from their respective organisations to act as the primary point of contact for all disengagement and exit related matters. At the Effective Date, the following individuals are nominated by the Supplier and Netlink Star as having exit related responsibility:

### Supplier Client Partner.

### Netlink Star Telecom Head of Operations

## Netlink Star’s Head of Operations (or their delegate) and the Supplier’s Client Partner shall be responsible overall for the project to carry out the Exit Plan.

## The Exit Plan shall as at the date of this Agreement bebased on this Schedule as may be varied by the Parties from time to time in accordance with the provisions of this Schedule.

## The Supplier shall review and (if an update is required) update the Exit Plan on a basis consistent with the principles set out in this Schedule to reflect any changes in the Services that have occurred since the Exit Plan was last agreed:

### in accordance with Schedule 8.1 (Governance);

### in the first month of each Contract Year (commencing with the second Contract Year); and

### in the case that there is a Significant Change to the Services or any new technology is implemented (that is not a Significant Change), within 20 Working Days of such change.

## If, after a review pursuant to Paragraphs 2.4.1 or 2.4.2, the Supplier considers that no update is required, the Supplier shall notify Netlink Star of this in writing within five (5) Working Days of completion of such review.

## If, after a review pursuant to Paragraphs 2.4.1 or 2.4.2, the Supplier considers that an update is required, the Supplier shall draft such update and submit the revised Exit Plan to Netlink Star for review.

## Within 20 Working Days following submission of the revised Exit Plan, Netlink Star shall confirm if it accepts the revised Exit Plan. If so, the revised Exit Plan shall automatically become the new Exit Plan. If not, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within a 20 Working Days of notification that the revisions are not acceptable, Netlink Star shall either (a) confirm that the then current Exit Plan shall not be revised or (b) escalate such dispute for resolution in accordance with the Dispute Resolution Procedure.

## Within 20 Working Days after service of a Termination Notice by either Party or six (6) months prior to the expiry of this Agreement (whichever the sooner), the Supplier will submit for Netlink Star's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and the then current Exit Plan and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.

## The process set out in Paragraph 2.7, shall be the process for agreement of the final Exit Plan. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as is relevant)

## The Supplier shall comply with all of its obligations contained in the Exit Plan and this Schedule.

# Principles of the Exit Plan

## The Exit Plan shall contain a detailed description of how the transition and migration of the Services to Netlink Star and/or a Replacement Supplier should be undertaken and managed in accordance with the Supplier’s obligations and the principles under this Schedule. The Exit Plan will contain, as a minimum:

### mechanisms for dealing with exit including which and how the Services will transfer and the scope of any exit assistance that may be required by Netlink Star;

### the management structure to be employed during the transfer and migration of the Services;

### a detailed description of the transfer and migration processes, including a timetable and any critical issues; and

### all necessary documentation and operational processes (e.g. Run Books) required for the continued provision of the Services (by a party other than the Supplier) post-termination of this Agreement,

along with further details in relation toParagraphs 4 to 13 (inclusive) below.

# Knowledge Transfer

## The Exit Plan shall contain a section giving a detailed plan of the knowledge transfer requirements and their method of achievement. The plan shall contain, but not be limited to, all Key Supplier Personnel listed in Schedule 9 (Key Personnel).

# Exit Assistance

## The Supplier shall provide such aspects of exit assistance as required by Netlink Star for up to 12 (twelve) months from the Exit Date (“**Exit Assistance Period**”).

## The Exit Plan shall contain a section setting out any dependencies the Supplier may have on Netlink Star to properly carry out the Exit Plan. During the Exit Assistance Period, the Supplier shall provide Netlink Star with any reasonable assistance requested by Netlink Star to allow the Services to continue without interruption following the termination or expiry of the Agreement and to facilitate the orderly transfer of responsibility for any conduct of the Services to Netlink Star or the Replacement Supplier. The Exit assistance shall include, but not be limited to, any activities defined in this Schedule.

# Assets (including hardware and equipment) and sub-contracts

## The Supplier shall (unless otherwise agreed by Netlink Star in writing) procure that all Authorised sub-contracts and other transferrable agreements (where such agreements are not transferrable but are key to the delivery of the Service then the Supplier shall have notified Netlink Star prior to entering into such arrangements and shall only enter once approved by Netlink Star) between the Supplier and third parties, which are necessary to enable Netlink Star and/or the Replacement Supplier to perform the Services in accordance with this Agreement or the Replacement Services, shall be assignable and/or capable of novation at the request of Netlink Star to Netlink Star or the Replacement Supplier upon the Supplier ceasing to provide the Services (or part of them) subject to the terms of such third party sub-contracts and agreements without payment by Netlink Star. Where the Supplier is unable to comply with the above obligation of this Paragraph 6.1, the Supplier shall promptly notify Netlink Star of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which may include the Supplier seeking an alternative subcontractor if agreed with Netlink Star.

## On receipt of the Exit Plan, Netlink Star will provide the Supplier with notice setting out:

### such Supplier Equipment (used exclusively for the provision of the Services to Netlink Star) as exists that Netlink Star requires and which it would like transferred to Netlink Star and/or its Replacement Supplier and which the Supplier agrees to sell; and

### which sub-contracts and other agreements specified in Paragraph 6.1 above Netlink Star requires to be assigned or novated to Netlink Star and/or its Replacement Supplier,

in order for Netlink Star and/or the Replacement Supplier to continue to provide the Services. The Supplier, where requested by Netlink Star, shall provide all reasonable assistance to Netlink Star and /or the Replacement Supplier to enable it to determine which Hardware, Software and Applications and sub-contracts and other agreements are required in order to provide the Services.

## If requested by Netlink Star, the Supplier shall assign, or procure the novation, to Netlink Star such sub-contracts and other agreements as specified in the notice provided by Netlink Star under Paragraph 6.1 above.

# Software (including Licences)

## A list of all the Software used in the operation and delivery of the Services will be maintained as part of normal operation of the Agreement in Schedule 5 (Software). Additional information shall be maintained as part of this section the Exit Plan showing whether each item of software is:

### Netlink Star proprietary (i.e. Netlink Star owns the IPR);

### Netlink Star licensed (i.e. IPR owned by a third party);

### Supplier proprietary (i.e. used/supplied by the Supplier in connection with delivery of the Services and owned by the Supplier); or

### Supplier licensed (i.e. used/supplied by the Supplier and IPR owned by a third party).

# IPR (including methodologies)

## This section of the Exit Plan shall contain a list of all the IPR (including methodologies) used in the operation and delivery of the Services. The Supplier shall identify those that are transferable and shall only be required to provide necessary details on those that are transferable.

# Infrastructure

## In this section of the Exit Plan, the Supplier shall insert a detailed description of the infrastructure used to provide the Services and a detailed process explaining how it will be decommissioned if required by Netlink Star.

# Normal Service Documentation

## The Supplier will maintain the Documentation up to date as part of normal operation of the Agreement and the detail must be sufficient to provide all the information reasonably required to enable Netlink Star, or the Replacement Supplier, to re-create, operate and manage the equivalent Hardware and Software environments. This Documentation shall include:

### Services descriptions and Service Levels descriptions;

### all operational procedures, standards documentation and forms used in the provision of Services including configuration, installation scripts and Run Books;

### a list of all tools and proprietary systems used to provide the Services;

### schedule of locations from where the Services are provided and supported;

### Business Continuity Plan, with necessary inputs from Netlink Star;

### copies of Change Approval Notices or equivalent forms, both agreed and pending;

### copies of requests including Catalogue Items, both agreed and pending;

### list of all outstanding Incidents and Problems;

### details of all incomplete Services or unaccepted Services as at the Exit Date;

### all Service history records; and

### information about partially completed Projects, Deliverables, work or Services. Such information shall be sufficiently detailed in accordance with Best Industry Practice to enable Netlink Star or the Replacement Supplier to be able to complete the relevant Projects, Deliverables, work or Services.

# Training

## The training to be provided by the Supplier shall be detailed in this section of the Exit Plan. As a minimum, the Supplier will provide:

### Agreed training to the staff of either Netlink Star or, at Netlink Star’s request, staff of the Replacement Supplier; and

### Training plans and materials specifically developed for Netlink Star and used by the Supplier for the induction of new staff members.

### Costs for proposed training courses and a breakdown of the same.

# Work Shadowing

## Subject always to the relevant parties entering into confidentiality agreements on terms no less onerous than those set out in clause 24 of the Agreement, the Supplier shall permit Netlink Star and/or a Replacement Supplier to observe (remotely, if necessary) the operation and delivery of the Services at Netlink Star Premises as part of Work Shadowing during the Exit Period provided that such activities do not interfere with the delivery of the Services. Further detail of Work Shadowing shall be included in the Exit Plan. If the Services are interfered with because of the Work Shadowing, then Supplier shall notify Netlink Star and Netlink Star shall have the option to require the Work Shadowing to continue, subject to Netlink Star agreeing to reduce or suspend the applicable Service Levels and Service Credits or pay an additional charge so that the Service can continue to be supplied in accordance with the requirements of Schedule 2.

# Netlink Star Premises

## Except as required to carry out the obligations under Paragraph 5 in relation to exit assistance, upon the Exit Date, the Supplier shall:

### vacate Netlink Star Premises;

### leave all agreed items on Netlink Star Premises;

### return all items on loan (if any) from Netlink Star to Netlink Star Premises, or transfer to the Replacement Supplier Premises, as directed by Netlink Star;

### return all items belonging to Netlink Star to Netlink Star Premises, or transfer to the Replacement Supplier Premises as directed by Netlink Star;

### redirect future physical deliveries to Netlink Star Premises, or to the Replacement Supplier Premises, as directed by Netlink Star;

### subject to clause 26, securely delete from its systems and/or destroy all Netlink Star data, databases, documentation, Confidential Information and connectivity except to the extent that retention is required under applicable law or regulation; and

### securely destroy or delete (as appropriate) all Netlink Star Data from Supplier premises and Supplier System.

**SCHEDULE 8.6**

**BUSINESS CONTINUITY AND IT SERVICE CONTINUITY**

1. **BCDR Policies**
   1. The Supplier shall provide documentary evidence that they comply with the following business continuity and disaster recovery standards (also known within Netlink Star as IT Service Continuity Management) (as updated from time to time, updated versions effective from the date such versions are uploaded to the Standards Portal subject to paragraph 1.2 of Schedule 2.4) relevant to the provision of the Services:
      1. NR\_L2\_RSK\_290 – Business Continuity Management;
      2. RSIT-SCM-FRA-001- IT Service Continuity Management Policy;
      3. RSIT-SCM-FRA-002 - IT Service Continuity Management Standards;
      4. ISO 22301:2012 - Societal security -- Business continuity management systems -- Requirements;
      5. ISO/IEC 27031:2011 - Information technology -- Security techniques -- Guidelines for information and communications technology readiness for business continuity;
      6. Major Incident Policy;
      7. Major Incident Process;
      8. the Business Continuity Institute ("**BCI**") Good Practice Guidelines; and
      9. ISO 22313:2014 Societal security - Business continuity management systems - Guidance, and ISO 24762:2008 Guidelines for information and communications technology disaster recovery services, in the provision of "IT Service Continuity Strategy" or "Disaster Recovery" plans (as such terms are defined with the relevant ISO standards).
2. **Key BCDR obligations**
   1. **Business Continuity Plan**
      1. Within 30 days of the Effective Date, Supplier shall provide to Netlink Star all Supplier’s business continuity plans applicable to the Services.
      2. Within 30 Days of the Effective Date, Supplier shall provide to Netlink Star documented evidence of the ongoing governance and management structure for the Supplier’s business continuity planning including training, exercise and update schedules.
      3. Within 30 days of an update to its business continuity plans, the Supplier shall provide to Netlink Star a copy of such updated plan.
      4. The Supplier will participate in all Netlink Star business continuity training and exercising as reasonably requested by Netlink Star.
      5. If Netlink Star has reasonable cause for concern as to the content of Supplier’s business continuity plan with regards to the Services, Netlink Star shall reasonably request changes to such plans and Supplier shall:
         1. Provide an action plan for improvement and;
         2. Work with Netlink Star to update its plans to the satisfaction of Netlink Star.
      6. “**Business Continuity Plan**” means all of the Supplier’s business continuity plans applicable to the Services as updated from time to time per Paragraphs 2.1.2 and 2.1.3.
      7. The Business Continuity Plan shall also be updated in accordance with Paragraph 2.7.
   2. **Disaster Recovery Plan**
      1. No less than 30 days before the Migration Operate Services Commencement Date, the Supplier shall provide to Netlink Star a draft disaster recovery plan (the “**Draft DR Plan**”).
      2. If, after a review of the Draft DR Plan, Netlink Star considers (acting reasonably) that no update is required, Netlink Star shall notify the Supplier of this in writing within five (5) Working Days of completion of such review.
      3. If, after a review of the Draft DR Plan, Netlink Star considers (acting reasonably) that an update is required, the Supplier shall draft such update and submit the revised Draft DR Plan to Netlink Star for review.
      4. Within 20 Working Days following submission of the Draft DR Plan, Netlink Star shall (acting reasonably) confirm if it accepts the revised Draft DR Plan. If so, the revised Draft DR Plan shall automatically become the Disaster Recovery Plan. If not, the Parties shall meet and use reasonable endeavours to agree the contents of such revised plan. If the Parties are unable to agree the contents of such revised plan or Netlink Star is not reasonably satisfied that the Supplier has an action plan to achieve the requirements within 20 Working Days of notification that the revisions are not acceptable, Netlink Star shall escalate such dispute for resolution in accordance with the Dispute Resolution Procedure.
      5. Once agreed, the Draft DR Plan shall automatically become the Disaster Recovery Plan. The Disaster Recovery Plan shall be updated in accordance with Paragraph 2.7.
      6. The Supplier will be required to undertake mutual testing and exercising of DR plans as reasonably required and requested by Netlink Star
   3. **Netlink Star plans**
      1. Netlink Star these will develop and provide to Cap Gemini recovery (and equivalent) plans for each of the services it utilises (“**NR Recovery Plans**”) as these become available. Supplier shall reasonably co-operate with Netlink Star as and when Netlink Star requires input in and review of the NR Recovery Plans (primarily when such plans are initially developed and updated).
      2. To the extent that Netlink Star identifies an incident, Netlink Star shall notify the Supplier and the Supplier shall reasonably support Netlink Star to identify (i) the cause of such incident, (ii) how such incident may be resolved and (iii) implement such resolution.
   4. **Back-up**
      1. Supplier shall conduct all back-ups as required in Schedule 2.1 (Services) in accordance with the principles set out in (i) NR\_L2\_RSK\_290 – Business Continuity Management, (ii) RSIT-SCM-FRA-001 and (iii) RSIT-SCM-FRA-002.
   5. **Testing** 
      1. Netlink Star tests service continuity periodically in accordance with its service continuity test schedule which it shall provide to the Supplier annually and the Supplier shall reasonably support Netlink Star with the planning, execution and reporting of any such planned test and exercises.
      2. All testing shall be supported by the Supplier in accordance with the RSIT ITSCM standards identified in Paragraphs 1.1.2 and 1.1.3 (as updated or replaced from time to time subject to paragraph 1.2 of Schedule 2.4).
      3. Subject to updates to the BCDR Policies in accordance with paragraph 1.1 above, the recovery time objectives shall be tested as a minimum as follows:

 15min RTO – Annually

 2hours RTO – Annually

 8hours RTO – Biennially

 24hours or greater RTO – Triennially

* + 1. In the event the Supplier fails to meet any of the RTOs set out in Paragraphs 2.5.3 in relation to the Services when Netlink Star carries out any of its service continuity testing then the Supplier shall repeat the testing within a reasonable timeframe. In the event any of the RTOs are failed for a second time then this shall be a Notifiable Default.
    2. In the event the Supplier fails to meet any of the RTOs set out in Paragraph 3.15 of Schedule 2.2 (Service Levels) In the event of a loss of any critical part of the Service or a Disaster (each a “B**CDR Event**”) then this shall be a Material KPI Failure.
  1. **Use of the Business Continuity Plan or Disaster Recovery Plan**
     1. In the event of a loss of any critical part of the Service or a Disaster (each a “**BCDR Event**”), the Supplier shall immediately notify Netlink Star and keep Netlink Star updated regarding any developments to such BCDR Event. Subject to written approval from Netlink Star, the Supplier shall invoke Disaster Recovery Plan as applicable and shall promptly confirm such invocation to Netlink Star.
     2. “**Disaster**” means the occurrence of one or more events which, either separately or cumulatively, mean the unplanned impairment or interruption of any element of the Services, systems, resources or processes that enable the standard performance or delivery of the Services.
     3. When a BCDR Event occurs and until it is resolved, Supplier shall be available 24 x 7 x 365 to support on any issues impacting the Services caused by the applicable BCDR Event.
     4. The Supplier shall provide the Business Continuity Services and Disaster Recovery Services in accordance with the service levels in Schedule 2.2 (Service Levels).
     5. Supplier will follow the process set out in the Major Incident Process in accordance with the Major Incident Policy and shall in all instances be required to notify Netlink Star and seek approval for use of such Business Continuity or Disaster Recovery Plans. The Business Continuity Plan and Disaster Recovery Plan shall not conflict with the Major Incident Process and Major Incident Policy.
     6. Following resolution of a Disaster the Supplier will carry out debriefs within 30 days of declared stand down to identify planning improvements and provide Netlink Star with its action plan for improvement. These may be joint debriefs if Netlink Star deem this necessary.
  2. **Updating the plans**
     1. The Supplier shall review and update as required the Business Continuity Plan and Disaster Recovery Plan on a basis consistent with the principles set out in this Schedule to reflect changes that have occurred since the version of such plan was last agreed:
        1. where reasonably required by Netlink Star, within 30 days of: an update to any BCDR Policy or, NR Recovery Plan; a Change or any testing pursuant to Paragraph 2.5;
        2. within two (2) Working Days when changes relating to the Services are made to the Incident Management Process; and
        3. in the first month of each Contract Year (commencing with the second Contract Year).
     2. If, after a review pursuant to Paragraph 2.7.1, the Supplier considers that no update is required, the Supplier shall notify Netlink Star of this in writing within five (5) Working Days of completion of such review.
     3. If, after a review pursuant to Paragraph 2.7.1,the Supplier considers that an update is required, the Supplier shall draft such update and submit the revised Business Continuity Plan or Disaster Recovery Plan or both (as applicable) to Netlink Star for review.
     4. Within 20 Working Days following submission of such revised plan, Netlink Star shall (acting reasonably) confirm if it accepts such revised plan. If so, such revised plan shall automatically become the new version of such plan. If not, the Parties shall meet and use reasonable endeavours to agree the contents of such revised plan. If the Parties are unable to agree the contents of such revised plan within 20 Working Days of notification that the revisions are not acceptable, Netlink Star shall either (a) confirm that the then current version of the plan shall not be revised or (b) escalate such dispute for resolution in accordance with the Dispute Resolution Procedure.

1. **NOTIFIABLE DEFAULT**
   1. A material breach of the obligations in this Schedule shall be a Notifiable Default.

**SCHEDULE 8.7**

**CONDUCT OF CLAIMS**

# INDEMNITIES

## 1.1 This Schedule shall apply to the conduct, by a Party from whom an indemnity is sought under this Agreement (the “**Indemnifier**”), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the “**Beneficiary**”).

## 1.2 If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Agreement (a “**Claim**”), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within ten (10) Working Days of receipt of the same.

## 1.3 Subject to Paragraph 2, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all reasonable costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier’s own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to Paragraph 2.2, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.

## With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:

### the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;

### the Indemnifier shall not bring the name of the Beneficiary into disrepute;

### the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and

## the Indemnifier shall conduct the Claim with all due diligence.

## The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:

### the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;

### the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within ten (10) Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or

### the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

# SENSITIVE CLAIMS

## With respect to any Claim which the Beneficiary, acting reasonably, considers is likely to have an adverse impact on the general public's perception of the Beneficiary (a “**Sensitive Claim**”), the Indemnifier shall be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim only with the Beneficiary's prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.

## The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which Paragraph 1.3 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

# RECOVERY OF SUMS

## If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:

### an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and

### the amount paid to the Beneficiary by the Indemnifier in respect of the Claimer the relevant indemnity.

# 4. MITIGATION

## Each of Netlink Star and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss or damage, including any Losses, for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Agreement.

SCHEDULE 9

KEY PERSONNEL

1. **KEY SUPPLIER PERSONNEL FOR ONGOING SERVICE DELIVERY**

* C (UK Service Owner)
* B (Service Delivery Manager)
* A(Security Manager)
* [TBC] (Architect) – Name to be confirmed by 1 Feb 2022

1. **KEY SUPPLIER PERSONNEL FOR TRANSITION & MIGRATION**–

* R(Transition Manager) - UK
* M (Transition Manager) – India
* G (Migration Lead Architect)
* D (Network Technical Lead Architect)

1. **KEY SUPPLIER EXECUTIVE SPONSORS**

The following are executive sponsors from the Supplier that will take part the in governance of this agreement but are not subject to the provisions of clause 10 of the Agreement. However, the Key Supplier Executive Sponsors’ commitment shall be required until the achievement of the CPP Milestone in the Initial Transition Project. The Supplier in any event shall notify the Customer of any changes to this list:

* T – Group Account Executive
* J – Vice President, Managed Services. Executive Sponsor
* M – Vice President, TMTS Market Unit.

**SCHEDULE 10**

**NOT USED**

**SCHEDULE 11**

**STAFF TRANSFER**

# DEFINITIONS

In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| **“Former Supplier”** | a supplier supplying services to Netlink Star before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such subcontractor); |
| **“Notified Sub-contractor”** | a Sub-contractor identified in the Annex to this Schedule to whom Transferring Former Supplier  Employees will transfer on a Relevant Transfer Date; |
| **“Relevant Transfer”** | a transfer of employment to which the Employment Regulations applies; |
| **“Relevant Transfer Date”** | in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place; |
| **“Replacement Sub-contractor”** | a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such subcontractor); |
| **“Service Transfer”** | any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Sub-contractor; |
| **“Service Transfer Date”** | the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires; |
| **“Staffing Information”** | in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as Netlink Star may reasonably request (subject to all applicable provisions of Data Protection Legislation), but including in an anonymised format:   1. their ages, dates of commencement of employment or engagement, gender and place of work; 2. details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise; 3. the identity of the employer or relevant contracting Party; 4. their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; 5. their wages, salaries, bonuses and profit sharing arrangements as applicable; 6. details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them; 7. any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims); 8. details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence; 9. copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and 10. any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations; |
| **“Supplier’s Final Supplier Personnel List”** | a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date; |
| **“Supplier’s Provisional Supplier Personnel List”** | a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier; |
| **“Transferring Former Supplier Employees”** | in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment  Regulations will apply on the Relevant Transfer Date; |
| **“Transferring Supplier Employees”** | those employees of the Supplier and/or the Supplier’s Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date. |

# INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to Netlink Star, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be.

**PART A**

**NOT USED**

**PART B**

**TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES**

# RELEVANT TRANSFERS

## Netlink Star and the Supplier agree that:

### the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

### as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms dis-applied through the operation of Regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-contractor and each such Transferring Former Supplier Employee.

## Netlink Star shall use reasonable endeavours to procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date and the Supplier shall make, and Netlink Star shall use reasonable endeavours to procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

# FORMER SUPPLIER INDEMNITIES

## Subject to paragraph 2.2, Netlink Star shall use reasonable endeavours to procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

### any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;

### the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

2.1.2.1 any collective agreement applicable to the Transferring Former Supplier Employees; and/or

2.1.2.2 any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

2.1.3.1 in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and

2.1.3.2 in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-contractor as appropriate, to the

extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

### a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;

### any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and

### any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-contractor to comply with Regulation 13(4) of the Employment Regulations.

## The indemnities in paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

### arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or

### arising from the failure by the Supplier and/or any Sub-contractor to comply with its obligations under the Employment Regulations.

## If any person who is not identified by Netlink Star as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by Netlink Star as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

### the Supplier shall, or shall procure that the Notified Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to Netlink Star and, where required by Netlink Star, to the Former Supplier; and

### the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier and/or the Notified Sub-contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

## If an offer referred to in paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or Netlink Star, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

## If by the end of the fifteen (15) Working Day period specified in paragraph 2.3.2:

### no such offer of employment has been made;

### such offer has been made but not accepted; or

### the situation has not otherwise been resolved, the Supplier and/or any Notified Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

## Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, Netlink Star shall use reasonable endeavours to procure that the Former Supplier indemnifies the Supplier and/or any Notified Subcontractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

## The indemnity in paragraph 2.6:

### shall not apply to:

2.7.1.1 any claim for:

1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
2. equal pay or compensation for less favourable treatment of parttime workers or fixed-term employees, in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

2.7.1.2 any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

### shall apply only where the notification referred to in paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to Netlink Star and, if applicable, the Former Supplier, within six (6) months of the Effective Date.

## If any such person as is described in paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-contractor and the Supplier shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under the Law.

# SUPPLIER INDEMNITIES AND OBLIGATIONS

## Subject to paragraph 3.2, the Supplier shall indemnify Netlink Star and/or the Former Supplier against any Employee Liabilities arising from or as a result of:

### any act or omission by the Supplier or any Sub-contractor in respect of any Transferring Former Supplier Employee or any employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

### the breach or non-observance by the Supplier or any Sub-contractor on or after the Relevant Transfer Date of:

3.1.2.1 any collective agreement applicable to the Transferring Former Supplier Employee; and/or

3.1.2.2 any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

### any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

### any proposal by the Supplier or a Sub-contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

### any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with Netlink Star and/or the Former Supplier in writing;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

3.1.6.1 in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and

3.1.6.2 in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

### a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;

### any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier’s failure to comply with its obligations under Regulation 13 of the Employment Regulations; and

### a failure by the Supplier or any Sub-contractor to comply with its obligations under paragraph 2.8 above.

## The indemnities in paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier’s failure to comply with its obligations under the Employment Regulations.

## The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with Regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

# INFORMATION

## The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to Netlink Star and/or at Netlink Star’s direction, the Former Supplier, in writing such information as is necessary to enable Netlink Star and/or the Former Supplier to carry out their respective duties under Regulation 13 of the Employment Regulations. Netlink Star shall use reasonable endeavours to procure that the Former Supplier shall promptly provide to the Supplier and each Notified Subcontractor in writing such information as is necessary to enable the Supplier and each Notified Subcontractor to carry out their respective duties under Regulation 13 of the Employment Regulations.

# PROCUREMENT OBLIGATIONS

## Notwithstanding any other provisions of this Part B, where in this Part B Netlink Star accepts an obligation to use reasonable endeavours to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that Netlink Star’s contract with the Former Supplier contains a contractual right in that regard which Netlink Star may enforce. The obligation to use reasonable endeavours to procure that a Former Supplier does or does not do something shall not apply where Netlink Star has no such contractual right.

**PART C**

**NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES**

# PROCEDURE IN THE EVENT OF TRANSFER

## Netlink Star and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of Netlink Star and/or any Former Supplier.

## If any employee of Netlink Star and/or any Former Supplier claims, or it is determined in relation to any employee of Netlink Star and/or any Former Supplier, that his/her contract of employment has been transferred from Netlink Star and/or any Former Supplier to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

### the Supplier shall, and shall procure that the relevant Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to Netlink Star and, where required by Netlink Star, given notice to the Former Supplier; and

### Netlink Star and/or any Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-contractor (as appropriate) or take such other reasonable steps as Netlink Star or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

## If an offer referred to in paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by Netlink Star and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

## If by the end of the fifteen (15) Working Day period specified in paragraph 1.2.2:

### no such offer of employment has been made;

### such offer has been made but not accepted; or

### the situation has not otherwise been resolved to the satisfaction of Netlink Star and the Supplier,

### the Supplier and/or the Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

# INDEMNITIES

## Subject to the Supplier and/or the relevant Sub-contractor acting in accordance with the provisions of paragraphs 1.2 to 1.4 and subject also to paragraph 2.4, Netlink Star shall:

### indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of Netlink Star referred to in paragraph 1.2 made pursuant to the provisions of paragraph 1.4 and the costs of employment up to the date of such termination or the date on which the person is re-employed by Netlink Star/the Former Supplier (or the date on which the situation is otherwise resolved by Netlink Star/the Former Supplier) provided that the Supplier takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

### use reasonable endeavours to procure that the Former Supplier indemnifies the Supplier and/or any relevant Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier made pursuant to the provisions of paragraph 1.4 and the costs of employment up to the date of such termination or the date on which the person is re-employed by Netlink Star/the Former Supplier (or the date on which the situation is otherwise resolved by Netlink Star/the Former Supplier) provided that the Supplier takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

## If any such person as is described in paragraph 1.2 is neither re employed by Netlink Star and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the timescales referred to in paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

## Where any person remains employed by the Supplier and/or any Sub-contractor pursuant to paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-contractor and the Supplier shall indemnify Netlink Star and any Former Supplier, and shall procure that the Subcontractor shall indemnify Netlink Star and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.

## The indemnities in paragraph 2.1:

### shall not apply to:

2.4.1.1 any claim for:

1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
2. equal pay or compensation for less favourable treatment of parttime workers or fixed-term employees, in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

2.4.1.2 any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure save where such claim arises from the relevant party complying with the timescales set out in paragraph 1.4 above;

### shall apply only where the notification referred to in paragraph 1.2.1 is made by the Supplier and/or any Sub-contractor to Netlink Star and, if applicable, Former Supplier within six (6) months of the Effective Date.

## Subject to paragraph 2.6, Netlink Star:

#### in respect of any employees of Netlink Star referred to in paragraph 1.2, shall; or

#### in respect of any employees of the Former Supplier referred to in paragraph 1.2, use reasonable endeavours to procure that each Former Supplier shall,

### indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of:

### any act or omission by Netlink Star or the Former Supplier arising before the Relevant Transfer Date;

### the breach or non-observance by Netlink Star or the Former Supplier arising before the Relevant Transfer Date of:

#### any collective agreement applicable to the employees of Netlink Star or the Former Supplier referred to in Paragraph 1.2; and/or

#### any custom or practice in respect of employees of Netlink Star or the Former Supplier referred to in Paragraph 1.2 which Netlink Star of the Former Supplier is contractually bound to honour;

### any claim by any trade union or other body or person representing any employee of Netlink Star or the Former Supplier referred to at paragraph 1.2 arising from or connected with any failure by Netlink Star or the Former Supplier to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions in relation to any employee of Netlink Star or the Former Supplier referred to at paragraph 1.2, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date;

### a failure of Netlink Star or the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to any employee of Netlink Star or the Former Supplier referred to at paragraph 1.2 in respect of the period up to (and including) the Relevant Transfer Date;

### any claim made by or in respect of any employee of Netlink Star or the Former Supplier referred to at paragraph 1.2 relating to any act or omission of the Netlink Star or the Former Supplier in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure of the Supplier or any Sub-contractor to comply with regulation 13(4) of the Employment Regulations.

## The indemnities in paragraph 2.5 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

## Supplier shall indemnify and keep indemnified Netlink Star and its relevant subcontractors against any Employment Liabilities arising from, or in connection with, any act or omission in relation to any of the Supplier Personnel which arise during the term of this Agreement, including any claim that they have become an employee of Netlink Star or any of its subcontractors, whether in accordance with TUPE or otherwise.

**PART D**

**EMPLOYMENT EXIT PROVISIONS**

# PRE-SERVICE TRANSFER OBLIGATIONS

## The Supplier agrees that within twenty (20) Working Days of the earliest of:

### receipt of the giving of notice of early termination or any Partial Termination of this Agreement;

### the date which is twelve (12) months before the end of the Term; and

### receipt of a written request of Netlink Star at any time (provided that Netlink Star shall only be entitled to make one such request itself in any six (6) month period),

### it shall provide in a suitably anonymised format so as to comply with Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it ’hall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by Netlink Star.

## At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to Netlink Star or at the direction of Netlink Star to any Replacement Supplier and/or any Replacement Sub-contractor:

### the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and

### the Staffing Information in relation to the Supplier’s Final Supplier Personnel List (insofar as such information has not previously been provided).

## Netlink Star shall be permitted to use and disclose information provided by the Supplier under paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor (including those parties who are invited to take part in a tender exercise for the provision of the Services). Where directed by Netlink Star, the Supplier shall provide the information referred to in paragraphs 1.1 and 1.2 direct to such prospective Replacement Suppliers, Replacement Sub-contractors and tenderers as request the same following such direction by Netlink Star, and the Supplier shall provide a contact name and details for such requests to be received. For the purposes of the restriction referred to paragraph 1.1.3, any one request by Netlink Star and each request by a prospective Replacement Supplier, Replacement Sub-contractor or tenderer related to the same procurement exercise shall be treated as a single request. For clarification, Netlink Star’s ability to share information disclosed by Supplier or directed to be disclosed by Netlink Star is subject to any third parties agreeing to treat the information confidentially and to use such information strictly for the purpose of bidding for and/or providing replacement services.

## The Supplier warrants to the best of the Supplier’s knowledge, for the benefit of Netlink Star, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

## From the date of the earliest event referred to in paragraph, 1.1.1 and 1.1.2, the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier’s Provisional Supplier Personnel List and shall not without the approval of Netlink Star (not to be unreasonably withheld or delayed):

### replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same or materially and substantially similar terms and conditions of employment as the person he/she replaces;

### make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);

### increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;

### introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;

### increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or

### terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

### and shall promptly notify, and procure that each Sub-contractor shall promptly notify, Netlink Star or, at the direction of Netlink Star, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

## During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to Netlink Star any information Netlink Star may reasonably require relating to the manner in which the Services are organised, which shall include:

### the numbers of employees engaged in providing the Services;

### the percentage of time spent by each employee engaged in providing the Services; and

### a description of the nature of the work undertaken by each employee by location.

## The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to Netlink Star, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Subcontractor shall provide, to Netlink Star or, at the direction of Netlink Star, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier employee:

### the most recent month's copy pay slip data;

### details of cumulative pay for tax and pension purposes;

### details of cumulative tax paid;

### tax code;

### details of any voluntary deductions from pay; and

### bank/building society account details for payroll purposes.

# EMPLOYMENT REGULATIONS EXIT PROVISIONS

## Netlink Star and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Agreement or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. Netlink Star and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms dis-applied through operation of Regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

## The Supplier shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.

## Subject to paragraph 2.4, the Supplier shall indemnify Netlink Star and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

### any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;

### the breach or non-observance by the Supplier or any Sub-contractor occurring on or before the Service Transfer Date of:

2.3.2.1 any collective agreement applicable to the Transferring Supplier Employees; and/or

2.3.2.2 any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

### any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

2.3.4.1 in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

2.3.4.2 in relation to any employee who is not identified in the Supplier’s Final Suppler Personnel list and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to Netlink Star and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

### a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);

### any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List for whom it is alleged Netlink Star and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and

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

## The indemnities in paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

### arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or

### arising from the Replacement Supplier’s failure, and/or Replacement Subcontractor’s failure, to comply with its obligations under the Employment Regulations.

## If any person who is not identified in the Supplier’s Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier’s Final Supplier Personnel List a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

### Netlink Star shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

### the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

## If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, Netlink Star shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

## If after the fifteen (15) Working Day period specified in paragraph 2.5.2 has elapsed:

### no such offer of employment has been made;

### such offer has been made but not accepted; or

### the situation has not otherwise been resolved, Netlink Star shall advise the Replacement Supplier and/or Replacement Subcontractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

## Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall (and shall use reasonable endeavours to procure that the relevant Sub-contractor shall) indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of paragraph 2.7 and the costs of employment up to the date of such termination or the date on which the person is re-employed by the Supplier or a Sub-contractor (or the date on which the situation is otherwise resolved by the Supplier or a Sub-Contractor) provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

## The indemnity in paragraph 2.8:

### shall not apply to:

2.9.1.1 any claim for:

1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
2. equal pay or compensation for less favourable treatment of parttime workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

2.9.1.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure save where such claim arises from the relevant party complying with the timescales set out in paragraph 2.7 above; and

### shall apply only where the notification referred to in paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within six (6) months of the Service Transfer Date.

## Subject to paragraph 2.11, Supplier shall in respect of any person referred to in paragraph 2.5 who claims, or it is determined that his/her contract of employment has been transferred from the Supplier or a Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, indemnify the Replacement Supplier and any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

### any act or omission by Supplier or a Sub-contractor arising before the Relevant Transfer Date;

### the breach or non-observance by Supplier or a Sub-contractor arising before the Relevant Transfer Date of:

### any collective agreement applicable to the persons referred to in paragraph 2.5; and/or

### any custom or practice in respect of persons referred to in paragraph 2.5 which Replacement Supplier or any Replacement Sub-contractor is contractually bound to honour;

### any claim by any trade union or other body or person representing any person referred to at paragraph 2.5 arising from or connected with any failure by Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions in relation to any person referred to at paragraph 2.5, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date;

### a failure of Supplier or a Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to any person referred to at paragraph 2.5 in respect of the period up to (and including) the Relevant Transfer Date;

### any claim made by or in respect of any person referred to at paragraph 2.5 relating to any act or omission of the Supplier or a Sub-contractor in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure of the Replacement Supplier or any Replacement Sub-contractor to comply with regulation 13(4) of the Employment Regulations.

## The indemnities in paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or Replacement Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Replacement Supplier and/or Replacement Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

## If any such person as is described in paragraph 2.5 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.

## The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier’s Final Supplier Personnel List before and on the Service Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between:

### the Supplier and/or any Sub-contractor; and

### the Replacement Supplier and/or the Replacement Sub-contractor.

## The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to Netlink Star and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable Netlink Star, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under Regulation 13 of the Employment Regulations. Netlink Star shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## Subject to paragraph 2.16, Netlink Star shall procure that the Replacement Supplier indemnifies the Supplier and Sub-contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

### any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;

### the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:

2.15.2.1 any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List; and/or

2.15.2.2 any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

### any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

### any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier’s Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

### any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

### any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

* + - 1. in relation to any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
      2. in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-contractor, to the Replacement Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

### a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

### any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under Regulation 13 of the Employment Regulations.

## The indemnities in paragraph 2.15 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

**ANNEX 11A**

**LIST OF NOTIFIED SUB-CONTRACTORS**

**SCHEDULE 12**

**PROTECTION OF PERSONAL DATA**

1. The Supplier shall comply with any further written instructions with respect to processing by Netlink Star noting that Netlink Star confirms it has the authority to provide Personal Data to Supplier for processing in compliance with Data Protection Legislation.
2. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| **Description** | **Details** |
| **Data Protection Officers** | **Netlink Star**: \f    **Supplier**: Py, 1 Blotten Vu, Woking, Surrey, KR98 6DB |
| **Subject matter of the processing** | Processing limited contact and identity data related to individuals involved in the receipt and provision of the Services in order to enable communication between the Supplier and Netlink Star |
| **Duration of the processing** | The Term |
| **Nature and purposes of the**  **processing** | The only processing that will take place is incidental to the provision of the Services and will involve access to the names and contact details of Netlink Star personnel with whom the Supplier is required to interact in order to provide the Services |
| **Type of Personal Data** | Name, Telephone Number, Email Address |
| **Categories of Data Subject** | Netlink Star personnel |

**SCHEDULE 13**

**SCHEDULE OF POST TENDER AMENDMENTS**

|  |  |
| --- | --- |
| **Reference** | **Amendment** |
| **Cross-reference updates** | |
| **Clauses 1.5.2, 5.13.4, 8.1.2 & 17.11.2 and all other references to Schedule 2.2 (Performance Levels)** | Each reference to “Schedule 2.2 (Performance Levels)” shall be deleted and replaced with “Schedule 2.2 (Service Levels)”. |
| **Clauses 5.5.3(b), 16.1.2(b), 16.1.2(d) & 23.9 and all other references to Schedule 2.4** | Each reference to “Schedule 2.4 (Security Management)” shall be deleted and replaced with a reference to “Schedule 2.6 (Security Management)”. |
| **Clause 5.57** | Clause 5.5.7 shall be deleted and replaced with the following: “where requested to do so by Netlink Star, enter into and comply with the terms of the Collaboration Agreement or enter into and comply with a collaboration agreement in a substantially similar form to that appended hereto at Appendix 1;” |
| **Clause 5.5.16** | Clause 5.5.16 shall be deleted and replaced with the following:  “comply with their respective responsibilities as set out in the RACI Matrix set out in any Project Sheet specific to a Project.” |
| **Clause 6.4 and all other references to Schedule 6.1** | The reference to “Schedule 6.1 (Integration Plan)” shall be deleted and replaced with a reference to “Schedule 6.4 (Initial Transition Project)”. |
| **Clause 6.7 and all other references to Schedule 6.2** | The reference to “Schedule 6.2 (Testing Procedures)” shall be deleted and replaced with a reference to “Schedule 6.3 (Testing Procedures)”. |
| **Clause 7.1 and all other references to Schedule 6.3** | The reference to “Schedule 6.3” shall be deleted and replaced with a reference to “Schedule 6.5 (Migration Project)”. |
| **Clause 11.7.1 and all other references to Schedule 7.1** | The reference to “Schedule 7.1 Charges and Invoicing” shall be deleted and replaced with a reference to “Schedule 7.1 (Charges and Invoicing)”. |
| **Clauses 12.3, 14, 37.1 & 43.5 and all other references to clause 14** | Each reference to clause 14 shall be amended from “14 (Records, Reports, Audits and Open Book Data)” to “14 (Records, Reports & Audits)”. |
| **Clauses 13.3 & 16.3 and all other references to Schedule 9.2** | Each reference to “Schedule 9.2 (Key Personnel)” shall be deleted and replaced with “Schedule 9.1 (Key Personnel)”. |
| **Clauses 16.1.3, 16.9.1, 16.9.2, 16.9.3 & 47.1 and all other references to Schedule 9.1** | Each reference to “Schedule 9.1 (Staff Transfer)” shall be deleted and replaced with “Schedule 11 (Staff Transfer)”. |
| **Clause 17.8.5(e) and all other references to Schedule 7.5** | The reference to “Schedule 7.5 (Financial Reports)” shall be deleted and replaced with “Schedule 7.6 (Financial Reports)”. |
| **Clause 17.8.6** | Clause 17.8.6 shall be deleted and replaced with the following:  “provisions enabling the Supplier to terminate the Key Sub-contract on notice on terms no more onerous on the Supplier than those imposed on Netlink Star under clauses 36.1 (Termination by Netlink Star), 37.4 (Payments by Netlink Star) and 37 (Consequences of Termination) of this Agreement;” |
| **Clause 28.9.6 and all other references to Schedule 7.6** | The reference to “Schedule 7.6 (Anticipated Savings)” shall be deleted and replaced with “Schedule 7.7 (Anticipated Savings)”. |
| **Clause 29 (Insurance) and all other references to Schedule 2.5** | The reference to “Schedule 2.5 (Insurance Requirements)” shall be deleted and replaced with “Schedule 2.7 (Insurance Requirements)”. |
| **Clause 37.3** | The reference to “clause 36.1” shall be deleted and replaced with “clause 36.1.1” |
| **Clause 37.4** | The reference to “clauses 36.1.1, 36.1.3 and/or 36.2” shall be deleted and replaced with “clauses 36.1.2, 36.1.3 and/or 36.2” |
| **Definitions amendments** | |
| **Clauses 16.5.3, 17.10.2, 17.13.1(d) & 43.3.5** | Each reference to “Subcontractor” shall be deleted and replaced with “Sub-contractor”. |
| **Clause 17.13.2** | The reference to “Key Subcontractor” shall be deleted and replaced with “Key Sub-contractor”. |
| **Clause 17.20** | The reference to “Relevant SubContractors” shall be deleted and replaced with “Relevant Sub-contractors”. |
| **Substantive** **amendments** | |
| **Clause 1.2.9** | Clause 1.2.9 shall be deleted and replaced with the following:  “unless otherwise provided and save for references in Annexes 1 to 3 of Schedule 5 (Software), references to clauses and Schedules are references to the clauses and schedules of this Agreement and references in any Schedule to Paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear; and” |
| **Clause 4.1.2** | Delete “provided that the aggregate duration of any Extension Periods shall be no longer than 5 years” and replace with “provided that the aggregate duration of the Initial Term and any Extension Periods shall be no longer than five (5) years”. |
| **Clause 4.5** | A new clause 4.5 shall be added as follows:  “Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that the Supplier shall not be required to provide a Guarantee for the purposes of this Agreement.” |
| **Clause 5.5.16** | Clause 5.5.16 shall be deleted and replaced with the following:  “comply with their respective responsibilities as set out in the RACI Matrix set out in any Project Sheet specific to a Project.” |
| **Clause 12.7** | Clause 12.7 shall be deleted and replaced with “Not Used”. |
| **Clause 12.11 (Financial Distress)** | Clause 12.11 shall be deleted and replaced with “Not Used”. |
| **Clause 14 (Records, Reports & Audits)** | Clause 14 shall be deleted and replaced with the following:  “**14. RECORDS, REPORTS & AUDITS**  14.1 The Supplier shall comply with the provisions of Schedule 8.4 (Reports and Records Provisions) in relation to the maintenance and retention of Records.  14.2 The Parties shall comply with the provisions of:  14.2.1 Part B of Schedule 7.6 (Financial Reports and Audit Rights) in relation to the provision of the Financial Reports; and  14.2.2 Part C of Schedule 7.6 (Financial Reports and Audit Rights) in relation to the exercise of the Audit Rights by Netlink Star or any Audit Agents.” |
| **Clause 16.9** | Clause 16.9.1 i.e. Part B of Schedule 11 (Staff Transfer) shall not apply. |
| **Clause 17.1.3** | Clause 17.1.3 shall be deleted and replaced with the following:  “in the case of the selection and appointment of New Sub-contractors only, assign, novate or otherwise transfer to Netlink Star or any Replacement Supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Agreement.” |
| **Clause 17.3** | Clause 17.3 shall be deleted and replaced with the following:  “If requested by Netlink Star within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to clause 17.2, the Supplier shall also provide:  17.3.1 in the case of a Sub-contract with a New Sub-contractor, a copy of the proposed Sub-contract; and  17.3.2 any further information reasonably requested by Netlink Star,  17.3.3 together the “Sub-contractor Information”. The Supplier may redact commercially sensitive information (e.g. pricing) in the Sub-contractor Information.” |
| **Clause 17.4** | Clause 17.4 shall be deleted and replaced with the following:  “17.4 Netlink Star may, within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to clause 17.2 (or, if later, receipt of any further information requested pursuant to clause 17.3), object to the appointment of the relevant Sub-contractor where that Sub-contractor is a New Sub-contractor and if it considers that:  17.4.1 the appointment of a proposed New Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of Netlink Star;  17.4.2 the proposed New Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;  17.4.3 the proposed New Sub-contractor employs unfit persons; and/or  17.4.4 the proposed New Sub-contractor should be excluded in accordance with clause 17.18,  in which case, the Supplier shall not proceed with the proposed appointment.” |
| **Clause 17.5** | Clause 17.5 shall be deleted and replaced with the following:  “If:  17.5.1 Netlink Star has not notified the Supplier that it objects to a proposed New Sub-contractor’s appointment by the later of ten (10) Working Days of receipt of:  (a) the Supplier’s notice issued pursuant to clause 17.1; and  (b) any further information requested by Netlink Star pursuant to clause 17.3; and  17.5.2 the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of Netlink Star in accordance with clause 17.6 (Appointment of Key Sub-contractors),  the Supplier may proceed with the proposed appointment.” |
| **Clause 17.8.4** | Clause 17.8.4 shall be deleted and replaced with the following:  “in the case of a Key Sub-contract with a New Sub-contractor, a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-contract to Netlink Star or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by Netlink Star;” |
| **Clause 17.8.5(d)** | Clause 17.8.5(d) shall be deleted and replaced with the following:  “the keeping of records in respect of the services being provided under the Key Sub-contract; and” |
| **Clause 17.8.11** | Clause 17.8.11 shall be deleted and replaced with “Not Used”. |
| **Clause 17.10.1** | Clause 17.10.1 shall be deleted and replaced with the following:  “in the case of a Sub-contract with a New Sub-contractor, giving the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour law;” |
| **Clause 17.13** | The following language shall be added at the start of clause 17.13:  “In the case of a Sub-Contract with a New Sub-Contractor,” |
| **Clause 17.14** | Clause 17.14 shall be deleted and replaced with the following:  “If Netlink Star is able to obtain from any New Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Supplier or the Supplier Personnel in the supply of the Services, then Netlink Star may:  17.14.1 require the Supplier to replace its existing commercial terms with that person with the more favourable commercial terms obtained by Netlink Star in respect of the relevant item; or  17.14.2 subject to clause 17.13, enter into a direct agreement with that New Sub-contractor or third party in respect of the relevant item.” |
| **Clause 19.16.1** | Clause 19.16.1 shall be deleted and replaced with the following:  “A licence to use any Supplier Non-COTS Software, Supplier NonCOTS Background IPRs, Third Party Non-COTS IPRs and/or Third Party Non-COTS Software on a royalty-free basis to the Replacement Supplier and on terms no less favourable than those granted to Netlink Star in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this clause 19 subject to receipt by the Supplier of a confidentiality undertaking in its favour (Software) duly executed by the Replacement Supplier” |
| **Clause 23.13** | Clause 23.13 shall be deleted and replaced with the following:  “The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions and currently supported software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software in the IT Environment (or as otherwise agreed by the Parties).” |
| **Clause 23.16 (Cybersecurity)** | Clause 23.16 shall be deleted and replaced with the following:  “The Supplier shall comply with Netlink Star’s Security Policy - L1 Information Security Policy and L2 Security Manual Standard.” |
| **Clause 25.1.3** | Clause 25.1.3 shall be deleted and replaced with the following:  “provide Netlink Star with a copy of all Information held on behalf of Netlink Star which is requested in a Request For Information which is in its possession or control in the form held by the Supplier within five (5) Working Days (or such other period as Netlink Star may reasonably specify) of Netlink Star’s request for such Information; and” |
| **Clause 25.3** | Clause 25.3.1 shall be deleted and replaced with the following:  “the Transparency Reports (excluding any Commercially Sensitive Data); and” |
| **Clause 26.5.2** | Delete and replace with: “ensure that it has in place protective measures which are agreed between the parties as appropriate to protect against a Data Loss Event;” |
| **Clause 26.5.4** | Clause 26.5.4(a) shall be deleted and replaced with the following:  “Netlink Star or the Supplier has provided appropriate safeguards in relation to the transfer as determined by Netlink Star (acting in good faith);” |
| **Clause 26.9** | Clause 26.9 shall be deleted and replaced with the following:  “Save as for any audits required by the Information Commissioner’s Office or any other regulatory authority which the Supplier shall allow or due to a Data Loss Event the Supplier shall allow for no more than one (1) audit of its Data Processing activity by Netlink Star or Netlink Star’s designated auditor per calendar year.” |
| **Clause 28.2** | Clause 28.2 shall be deleted and replaced with the following:  “The Supplier’s liability in respect of:  28.2.1 the indemnities in clause 12.6 (VAT), clause 16.7 (Employment Indemnity), clause 16.8 (Income Tax and National Insurance Contributions), clause 22 (IPRs Indemnity) and Schedule 11 (Staff Transfer), shall be unlimited; and  28.2.2 all breaches of clause 26 (Protection of Personal Data) shall be capped in aggregate at twenty million pounds (£20,000,000.00).” |
| **Clause 28.6** | Clause 28.6 shall be deleted and replaced with the following: “28.6 Subject to clauses 28.1 and 28.3 (Unlimited Liability) and clause 28.8 (Consequential Losses) and without prejudice to Netlink Star’s obligation to pay the Charges as and when they fall due for payment (including payments in respect of unpaid Charges for Services received up until the Termination Date):28.6.1 Netlink Star’s total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of early termination of this Agreement by Netlink Star pursuant to clause 36.1 (Termination by Netlink Star) or by the Supplier pursuant to clause 36.3.1 (Termination by the Supplier) shall in no event exceed five hundred thousand pounds (£500,000); and28.6.2 Netlink Star’s aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of Defaults of Netlink Star shall in no event exceed an amount equal to fifty per cent (50%) of the total Charges paid, due or which would have been payable during the Term, as set out in the Base Overhead Charge.” |
| **Clause 31.2** | Clause 28.6.1 shall be deleted and replaced with “Not Used”. |
| **Clause 36.1.1** | Clause 36.1.1 shall be deleted and replaced with the following:  “for convenience at any time effective 90 days from issue of such Termination Notice, except where the Agreement should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU in which case such notice may be effective immediately. If such termination for convenience occurs prior to final acceptance of the Initial Transition Project then Supplier shall not be required to pay any amounts it has received or due in respect of Milestones which have been Achieved.” |