

IN THE CROWN COURT AT SOUTHWARK

BETWEEN

THE SERIOUS FRAUD OFFICE

-v-

AIRLINE SERVICES LIMITED

STATEMENT OF FACTS

**PREPARED PURSUANT TO PARAGRAPHS 5(1) OF SCHEDULE 17
TO THE CRIME AND COURTS ACT 2013**

1. The agreed facts are set out under the following headings:
 - I Introduction
 - II Airline Services Limited
 - III ASL's Sales Team
 - IV The use of agents by ASL
 - V ASL Agent 1's Business
 - VI The agreements between ASL and Lufthansa
 - VII Supplemental Agreement No. 1 ("SA1") - Seat Modifications for Airbus 340 – Count 1 – Failure of a commercial organisation to prevent bribery, contrary to section 7 of the Bribery Act 2010
 - VIII Supplemental Agreement No. 2 ("SA2") – BOSE Headsets
 - IX Supplemental Agreement 'No. 2' ("SA3") - Brand Panels – Count 2 – Failure of a commercial organisation to prevent bribery, contrary to section 7 of the Bribery Act 2010
 - X Supplemental Agreement No. 4 ("SA4") - Boeing 747 Seat Modifications - Count 3 – Failure of a commercial organisation to prevent bribery, contrary to section 7 of the Bribery Act 2010
 - XI ASL's anti-bribery and corruption procedures

I. INTRODUCTION

2. This document is an agreed Statement of Facts in relation to the commission by Airline Services Limited [hereafter 'ASL'] of three offences of failing to prevent bribery contrary to section 7 of the Bribery Act 2010. It is produced for the purposes of a Deferred Prosecution Agreement between the Serious Fraud Office ['SFO'] and ASL.

3. This case relates to the way in which ASL used an agent, ASL Agent 1, to assist in securing business from Deutsche Lufthansa AG ['DLH'] and its subsidiary, Lufthansa Technik AG ['LHT'], (hereafter together referred to as 'Lufthansa'). At the same time as acting as an agent for ASL, ASL Agent 1 was also retained (as a consultant and later as an employee) by Lufthansa as a project manager. Thus, ASL Agent 1 was working for both the customer, Lufthansa, and the supplier, ASL. Three contracts have been identified in which it is apparent that ASL Agent 1 abused his position with/at Lufthansa in order to provide ASL with an unfair advantage. The overall value to ASL of these three contracts (including additional work that was subsequently awarded, thus increasing the value of the contracts) was £7,387,227.00 with a gross profit to ASL of £990,971.45.
4. Following the identification of concerns relating to ASL's engagement of ASL Agent 1, ASL instructed a firm of external lawyers to conduct an internal investigation following which ASL decided to take the significant step of self-disclosing the conduct set out in this Statement of Facts to the SFO. This disclosure to the SFO occurred initially on 30 July 2015. There followed a series of meetings and the provision of material to the SFO by ASL through ASL's legal advisers. Such material was provided both voluntarily and through the SFO using its compulsory powers.
5. On 16 December 2015, the Director of the SFO ['DSFO'] authorised the opening of a criminal investigation.
6. Since the DSFO opened an investigation into ASL, the company has continued to make electronic and documentary material available to the SFO both voluntarily and through the SFO's compulsory powers. This has included the provision of some privileged material under a limited waiver.
7. The SFO has reviewed the material provided by ASL and has conducted interviews with some members of ASL's Board, senior management and relevant employees. ASL refrained from interviewing after the commencement of the SFO investigation.
8. Further, at the request of the SFO, German law enforcement authorities interviewed Former Lufthansa Senior Employee 2. This individual both managed and oversaw the tendering process for the procurement of the ASL contracts.
9. The SFO has undertaken a comprehensive review of ASL's relationships with other agents and with other airlines and has taken necessary steps to satisfy itself that the full extent of the offending has been identified. The SFO's investigation included obtaining and reviewing significant amounts of hard copy and digital material, conducting witness interviews and interviews under caution with a number of individuals, as well as making a number of requests of an overseas jurisdiction.
10. As part of the SFO's overall investigation, the SFO has separately focused on ASL's use of a further agent in addition to ASL Agent 1. This aspect of the investigation has not resulted in there being a sufficiency of evidence to meet the Full Code Test as set out in the Code for Crown Prosecutors, nor are there reasonable grounds for believing that a continued investigation

would provide further admissible evidence within a reasonable period of time that would establish a realistic prospect of conviction under the Full Code Test against ASL in relation to this separate conduct.

II. AIRLINE SERVICES LIMITED

11. ASL is a UK incorporated company which previously provided, *inter alia*, services and products for the refurbishment of aircraft interiors. It was a family business founded in 1984. The business developed to include:
 - (i) the provision of services at different airports: cleaning, de-icing, checking passengers and baggage handling ['the Handling division'] ;
 - (ii) the manufacture and adaptation of parts for aircraft interiors (seats, headrests, trays etc.) ['the Interiors division'].
12. ASL's head office and workshop were based on an industrial estate in Wythenshaw, near Manchester. ASL also had staff at a number of different UK airports. In all, at any one time, the company had as many as 1,000 employees. Only a single part-time administrative employee now remains.
13. In 2004, a management buy-out took place and ASL was acquired by Airline Services Holdings Ltd ['ASHL']. After this time the new management included two family members of the founding family and a former solicitor as Chief Executive in addition to several others.
14. At its peak, the group of which ASL was part had an annual turnover of approximately £60m.
15. In 2012 the company now known as Airline Services and Components Group Limited ['ASCGL'] acquired ASHL (and therefore, indirectly, ASL) with the assistance of third party funding.
16. On 20 February 2018, ASL completed the sale of its 'Interiors' business division, and on 5 April 2018 the 'Handling' business division was sold. A transitional services agreement with the buyer of the Handling division expired on 30 June 2019. ASL is now a non-trading entity.

III. ASL'S SALES TEAM

17. ASL employed several salespeople whose job was to sell the products and services which ASL could provide to different airlines.
18. From about 2011 to early 2014, the ASL Sales Team was split into three geographic areas, the first based in the UK and dealing with sales to airlines in India, Sri Lanka and Indonesia; the second based in Germany with responsibility for sales into Germany and Turkey; and lastly an individual based in Austria who was responsible for sales into the remainder of Europe and the Middle East. Each salesperson was entitled to commission calculated by reference to the gross sales that he/she achieved.

19. ASL's dealings with ASL Agent 1 were through its German Sales Team working for ASL's subsidiary incorporated under German law, Airline Services Germany GmbH (an entity which was dissolved on 6 April 2016). Two individuals in this team were ASL Senior Employee 3 and ASL Senior Employee 4.

IV. THE USE OF AGENTS BY ASL

20. In order to secure business from the airlines most of the sales personnel used agents as ASL considered that the agents tended to have better contacts within individual airlines.
21. A number of agents had signed agreements with ASL. The agreements specified the percentage commission to which the agents would be entitled in return for introducing business to ASL. The commission for the salespeople and the agents was based on the price of the contract and not on how profitable or otherwise the contract might be. As a result, there was a risk that the salespeople might commit the company to contracts that were lucrative for themselves and their agents but not necessarily for the company.

V. ASL AGENT 1's BUSINESS

22. On 7 October 2011, ASL entered into an agreement with ASL Agent 1's Business. Under the agreement, ASL would pay commission to ASL Agent 1's Business of 10% of the value of any contracts won by ASL as a result of the efforts of ASL Agent 1 in promoting ASL's goods and services (this commission was later reduced to 5%).
23. In acting on behalf of ASL, ASL Agent 1 worked closely with ASL Senior Employee 3 and ASL Senior Employee 4 who were based in Germany. A large part of the business that ASL Agent 1 introduced to ASL was with Lufthansa.
24. At the same time as acting as an agent for ASL, ASL Agent 1 was also retained by Lufthansa as a consultant project manager in a department named Product Competence Centre Cabin Interior & In-flight Entertainment. Former Lufthansa Senior Employee 2 allocated work and gave instructions to ASL Agent 1.
25. On behalf of Lufthansa, ASL Agent 1 worked on projects for the improvement of the interiors of Lufthansa's fleet of Airbus 340s and Boeing 747s. ASL Agent 1's duties included inputting into the Requests for Proposals (the invitation to tender documents used by Lufthansa) before they were sent out to potential bidders; evaluating bid documents submitted in response to the Requests for Proposals; and making recommendations to the Decision Committee regarding the bids that were made.
26. ASL would be one of a number of companies submitting bids to Lufthansa for this work and ASL Agent 1 was privy to commercially sensitive information submitted by companies responding to Lufthansa's tenders in competition with ASL.

27. In short, ASL Agent 1 was working both for the supplier, ASL, and the customer, Lufthansa.
28. In due course, ASL was awarded contracts for both the Airbus 340 and the Boeing 747 by Lufthansa.

VI. THE AGREEMENTS BETWEEN ASL AND LUFTHANSA

29. On 14 October 2011 and 28 November 2011 ASL entered into over-arching General Terms of Agreement ['GTAs'] with Lufthansa.
30. These framework agreements between Lufthansa on the one hand, and ASL on the other, provided a mechanism by which Lufthansa were further able to contract with ASL for ASL to undertake specific lines of work for individual projects.
31. Between November 2011 and October 2012, and pursuant to the GTAs, ASL entered into four separate Supplemental Agreements with entities within the Lufthansa group. Payments to ASL Agent 1 were made in respect of three of the four Supplemental Agreements that were awarded. The overall value of those three contracts is £6,710,347.70 with a gross profit to ASL of £989,867.32.
32. In the course of carrying out the work under some of these three agreements, ASL came to bid for, and win, further work, thus increasing the value of the contracts. The overall value of the additional work that ASL won under some of these three supplemental agreements, which cannot be allocated to individual agreements, was £676,879.30, with a gross profit to ASL of £82,843.13.
33. Therefore, the relevant overall value of the contracts and additional work in respect of the three Supplemental Agreements where payments were made to ASL Agent 1 was £7,387,227.00. The overall gross profit to ASL (following the deduction of further stock provision costs of £81,739.00) was £990,971.45.

VII. SUPPLEMENTAL AGREEMENT NO. 1 ("SA1") - SEAT MODIFICATIONS FOR AIRBUS 340 - COUNT 1 - FAILURE OF A COMMERCIAL ORGANISATION TO PREVENT BRIBERY, CONTRARY TO SECTION 7 OF THE BRIBERY ACT 2010

In Summary

Airline Services Limited, between 1 July 2011 and 30 November 2013, failed to prevent a person or persons associated with it from committing bribery in circumstances in which they intended to obtain or retain business and/or an advantage in the conduct of business, for Airline Services Limited, namely by:

- (i) **Promising and/or giving ASL Agent 1's Business between 5% and 10% of the value of any contracts awarded to Airline Services Limited by Lufthansa; and**

- (ii) **Intending thereby to induce ASL Agent 1, an employee or agent of Lufthansa, to perform a relevant function or activity improperly, namely, showing favour to Airline Services Limited in the tender process for, and performance of, the first Supplemental Agreement**

Facts

34. On 12 April 2011, ASL was invited to participate in Lufthansa's tender for seat modifications to accommodate a new in-flight entertainment system for Lufthansa's Airbus 340 fleet (Supplemental Agreement No.1). There were at least two other bidders for this contract.
35. In the course of the tendering process, ASL Agent 1 abused his position at Lufthansa in order to give ASL an unfair advantage. He provided confidential information to ASL to enable ASL to improve its initial bid; he supported ASL through the bid process; and he helped ASL to win the contract.
36. On 4 May 2011, ASL Agent 1 forwarded the Request for Proposal's technical details to ASL Senior Employee 3 and ASL Senior Employee 4 with a '*small hint*' to include the cost of a new backrest meal tray in ASL's bid. ASL Agent 1 also indicated that he would be willing to review ASL's draft proposal. He was later thanked by ASL Senior Employee 4 for his "*input and hints*".
37. On 11 May 2011, ASL Agent 1 sent ASL Senior Employee 3 and ASL Senior Employee 4 an e-mail with an alternative pricing structure for ASL and promised to provide a competitor's rough figure for a similar project. ASL Agent 1 also sent on a question asked of Lufthansa by another ASL competitor in which the competitor had provided details of the material used for the backrests. ASL Agent 1 later visited ASL's office "*to go through ... [the] proposal*", with ASL's initial bid submitted the day after the visit. ASL Agent 1 then continued to provide information about Lufthansa's internal initial response to ASL's proposal.
38. A formal meeting took place between ASL and Lufthansa on 22 June 2011, following which additional queries were raised by Lufthansa. On 13 July 2011, ASL Senior Employee 4 sent an e-mail to ASL Senior Employee 5 informing him that ASL Agent 1 had said that ASL had to "*INCREASE our proposal. I know how and why and how much. The proposal has to be send then as draft to [ASL Agent 1] ONLY, if possible by TODAY.*" The deadline for submission of the revised proposal was the following day. On the same day, ASL Agent 1 reviewed ASL's revised draft documentation and commented on the same, including the pricing. To that, ASL Senior Employee 4 replied: "*Lets push it through to the benefit of all involved parties*". ASL Agent 1 responded: "*Will do so!*" A revised bid proposal was submitted the next day.
39. ASL Agent 1 continued to update ASL on the status of the other competitors involved in the tender and continued to assist ASL with other aspects of the project proposal, including by:
- a. Having an input into ASL's pricing for its design options;
 - b. Assisting with ASL's letter regarding the airworthiness certification of the seats following the modification;

- c. Making changes to and approving ASL's presentation ahead of an Initial Technical Coordination meeting;
 - d. Advising ASL Senior Employee 4 on what was required in respect of the seating specifications;
 - e. Attending ASL's offices to *"guide" and "make sure everything goes smooth and no questions from LHT etc"*;
 - f. Providing support to ASL through its further discussions with Lufthansa, whilst advising ASL that *"...I will be supporting you."*
40. Commenting that Lufthansa and a competitor were *"waiting to kill ASL"*, ASL Senior Employee 4 described ASL Agent 1 in these terms:
- "... he try to push us through against all odds."*
41. On 22 November 2011, Supplemental Agreement 1 ['SA1'] was signed on behalf of Lufthansa, and on 24 November 2011 ASL was informed that it had been awarded SA1.
42. Further to being awarded SA1, ASL was awarded further work on the Airbus 340 in respect of: seat arm caps; life vest containers and pouches; modifying seats that had been supplied by another manufacturer; pad prints; and cup holders.
43. ASL Agent 1 continued to support ASL in performing its obligations under SA1, including by:
- a. Providing preparation assistance/training ahead of ASL's Preliminary Design Review (PDR) with Lufthansa, in order to *"fine tune" ASL's presentations*;
 - b. Supporting ASL with major changes to the proposals for the pricing and design of the seat arm caps;
 - c. Providing (from his personal e-mail account) confidential information about the specifications for the Airbus frame;
 - d. Providing confidential competitor information to ASL to assist it to estimate the cost of the storage of seats ordered from another manufacturer (with ASL Senior Employee 4 subsequently saying, *"LHT offered a price of EURO 10.000ea, so we must/should be under this amount in total"*);
 - e. Providing ASL with a copy of a purchase order that Lufthansa had issued to a competitor company – accompanied by a reminder to *"keep the P/O pricing confidential!!"*;
 - f. Assisting ASL to prepare for an important Critical Design Review meeting;
 - g. Contributing to the monthly reports that ASL was required to provide under SA1, with ASL Senior Employee 4 stressing that ASL should *"always send the report to [ASL Agent 1] prior to send it to everyone...."*
44. Whilst ASL Agent 1 was ostensibly acting for and on behalf of Lufthansa, within ASL he was described as *"our man"* and as *"supporting us (behind the scenes)"*.
45. Of his own position, ASL Agent 1 wrote:

"The whole 1,5 year project time I had the umbrella over ASL..."

"As you know we, as a team, won the project ... and this created a lot of enemies on the LHT integrator side and of course challenges. So far I was able to cover and protect you against these challenges the whole 2 years ... While I am your friend and supporter I am also a DLH employee. And currently I am at the edge, where I can't protect you anymore"

46. While the work was being done, it became apparent that ASL had underestimated costs associated with seat integration work under SA1. On 12 September 2013, ASL Senior Employee 6 informed ASL Senior Employee 4 and another manager within ASL that ASL was over budget by 34% and that ASL would need to increase the price from €58,171.24 to €83,294.24. ASL Agent 1 was asked to advise on a confidential basis (via his personal email address) how this might best be explained to Lufthansa. By 30 October 2013, ASL Senior Employee 3 appears to have been confident that ASL Agent 1 would be able to recover these costs for ASL:

"I am sure with help of [ASL Agent 1] we'll get our costs covered"

47. Evidence of the close (and improper) relationship between ASL Agent 1 and ASL can be found in an internal ASL e-mail dated 15 November where ASL Senior Employee 3 advised ASL Senior Employee 6,

"Please don't hesitate to share these findings with [ASL Agent 1] (only [ASL Agent 1]) and also ask for his suggestions."

48. The agreement was signed in November 2011. In time, SA1 was to be worth £2,785,246.67 to ASL, with a gross profit to ASL of £122,021.81 on that contract.

VIII. SUPPLEMENTAL AGREEMENT NO. 2 ("SA2") – BOSE HEADSETS

49. Supplemental Agreement No. 2 ['SA2'] related to the provision of Bose headsets. ASL Agent 1 provided assistance to ASL advising ASL on price and on their revised proposals. The agreement is dated 3 January 2012 and was worth £558,102.91. It was completed and corrected through an amendment to the supplemental agreement identified as 'SA2b' signed on 2 November 2012. Evidence has not been identified which indicates ASL Agent 1 influencing the award of, or otherwise contributing to the decision to award, the contract to ASL. Although ASL tried to win further work pursuant to SA2, this work was instead awarded to an in-house team. No Bribery Act 2010 offence has been identified in respect of SA2.

IX. SUPPLEMENTAL AGREEMENT 'NO. 2' ("SA3") - BRAND PANELS - COUNT 2 - FAILURE OF A COMMERCIAL ORGANISATION TO PREVENT BRIBERY, CONTRARY TO SECTION 7 OF THE BRIBERY ACT 2010

In Summary

Airline Services Limited, between 1 September 2011 and 31 July 2012, failed to prevent a person or persons associated with it from committing bribery in circumstances in which they intended to obtain or retain business and/or an advantage in the conduct of business, for Airline Services Limited, namely by:

- (i) Promising and/or giving ASL Agent 1's Business between 5% and 10% of the value of any contracts awarded to Airline Services Limited by Lufthansa; and**
- (ii) Intending thereby to induce ASL Agent 1, an employee or agent of Lufthansa, to perform a relevant function or activity improperly, namely, showing favour to Airline Services Limited in the tender process for, and performance of, the third Supplemental Agreement**

Facts

- 50. A further Supplemental Agreement, also called No. 2, was concluded with Lufthansa [hereafter, for ease of reference, referred to as 'SA3']. This was for the supply of brand panels for Lufthansa's regional fleet. ASL Agent 1 worked *"behind the scene"* to obtain further work for ASL. He promoted ASL throughout the period of this supplemental agreement. This extended to providing ASL with confidential information and to advising ASL to increase its price (against the interests of Lufthansa).
- 51. On 14 September 2011, following a recommendation from ASL Agent 1, Lufthansa invited ASL to submit a proposal to supply brand panels for Lufthansa's regional fleet. On 5 October 2011, a meeting took place at which ASL Agent 1 was formally mandated on behalf of Lufthansa to discuss Lufthansa's issues concerning this project. Nonetheless, only two days later, on 7 October, ASL Agent 1 (as ASL Agent 1's Business) signed the agency agreement with ASL.
- 52. On 26 October 2011, Lufthansa explained that ASL would need to enter into a separate General Terms of Agreement with DLH (as opposed to the existing one with LHT). The General Terms of Agreement were entered into on 28 November 2011.
- 53. At around the same time, Lufthansa asked ASL if it was interested in developing brand panels for Lufthansa's classic fleet. This appears to be reflected in an e-mail from ASL Agent 1 to ASL Senior Employee 3 on 27 October 2011:

"Future business...In additional, I push your company also...for some work on the Longhaul Fleet."

- 54. ASL Agent 1 reiterated his efforts to get more work for ASL on 12 November 2011:

"I told you, I am pushing and you do a good job --> more work for all of us :-)"

- 55. Further, on 18 November 2011 ASL Agent 1 sent an e-mail to ASL Senior Employee 3 :

“As spoken on the phone earlier, you are aware that I work behind the scene inside DLH/LHT to bring Airline Services more business from the DLH group. In the next few days, you should receive a tender for a new project.”

56. On 13 January 2012, ASL Senior Employee 4 sent an e-mail to ASL Agent 1, asking to speak to him about, among other things, brand panels for A321 aircraft. Lufthansa later invited ASL to supply the brand panels for the A321 and intercontinental fleets. When ASL had problems developing the brand panels, ASL Senior Employee 4 told colleagues that he had spoken to ASL Agent 1 and that ASL Agent 1 would like more information. ASL Senior Employee 4 said that *“This would help him push our pricing through.”*
57. On 10 February 2012, using his personal e-mail account, ASL Agent 1 sent an e-mail to ASL Senior Employee 3 and ASL Senior Employee 4 informing them of what had taken place at a meeting on 8 February 2012; ASL Agent 1 also provided information that was confidential to Lufthansa. The same day, ASL Agent 1 recommended that ASL increase its price for intercontinental brand panels.
58. On 12 March 2012, ASL Agent 1 sent ASL Senior Employee 4 an internal e-mail exchange within Lufthansa and advised ASL to submit specific part numbers. The agreement was signed on 28 March 2012.
59. In May 2012, when ASL had problems meeting its delivery dates, ASL Senior Employee 6 made contact directly with Lufthansa. This prompted ASL Senior Employee 4 to send the following e-mail:

“Please, please, please...!!!please always ask [ASL Agent 1] if you are not sure and before you send out anything!!! Otherwise they will finish us and ASL off...I am fully aware of the present workload but please we have to concentrate on each single project properly. Please 'use' [ASL Agent 1] in our means...”
60. When an issue arose over price, ASL Senior Employee 4 asked ASL Agent 1 for advice. ASL Senior Employee 4 advised ASL Senior Employee 7: *“Don’t send anything to [ASL Agent 1’s] DLH email if you want some favours.”*
61. On 19 July 2012, Lufthansa made a further order for A320 brand panels.
62. On 27 July 2012, ASL Agent 1 sent a Lufthansa design to ASL Senior Employee 3 and ASL Senior Employee 4 - *“always confidential”* – to help ASL design its own panel.
63. As with SA1, ASL Agent 1 continued to provide advice, input and assistance to ASL, with ASL regularly seeking his views and his comments on draft documents.
64. This supplemental agreement is dated 28 March 2012 and was worth £588,113.31 to ASL, with a gross profit to ASL of £245,008.51 on that contract.

**X. SUPPLEMENTAL AGREEMENT NO. 4 ("SA4") - BOEING 747 SEAT MODIFICATIONS - COUNT 3
- FAILURE OF A COMMERCIAL ORGANISATION TO PREVENT BRIBERY, CONTRARY TO
SECTION 7 OF THE BRIBERY ACT 2010**

In Summary

Airline Services Limited, between 1 January 2012 and 31 October 2012, failed to prevent a person or persons associated with it from committing bribery in circumstances in which they intended to obtain or retain business and/or an advantage in the conduct of business, for Airline Services Limited, namely by:

- (i) Promising and/or giving ASL Agent 1's Business between 5% and 10% of the value of any contracts awarded to Airline Services Limited by Lufthansa; and**
- (ii) Intending thereby to induce ASL Agent 1, an employee or agent of Lufthansa, to perform a relevant function or activity improperly, namely, showing favour to Airline Services Limited in the tender process for, and performance of, the fourth Supplemental Agreement**

Facts

- 65. Supplemental Agreement No. 4 ['SA4'] was for the modification of seats for Lufthansa's fleet of Boeing 747s. ASL Agent 1 supported ASL's bid at the expense of its competitors. He provided confidential information to ASL and he provided personal assistance to ASL in putting together the various tenders that were offered. Thereafter, ASL Agent 1 kept ASL updated on the progress of the decision-making process.
- 66. On 17 January 2012, ASL Agent 1 informed ASL that Lufthansa would be issuing tenders for modifications to seats on its fleet of Boeing 747s.
- 67. On 6 February 2012, ASL Agent 1 provided ASL with a list of competitors. The following day, ASL Agent 1 sent a message: *"We need one to eliminate right at the beginning"*.
- 68. On 8 February 2012, ASL Agent 1 visited ASL's German office.
- 69. From an e-mail that was sent two days later, on 10 February, it is apparent that ASL Agent 1 must have provided ASL with confidential information from within Lufthansa during his visit to ASL's German office; ASL Agent 1 also offered to help ASL with its bid. Again, the e-mail came from ASL Agent 1's personal e-mail account.
- 70. On 28 February 2012, Lufthansa invited ASL to tender for the modification of seats on the Boeing 747s in order to be able to incorporate a new in-flight entertainment system. On the same day, ASL Senior Employee 3 advised ASL Senior Employee 7 that ASL Agent 1 would come to Manchester to assist with the response. ASL Agent 1 went on to provide ASL with a copy of Lufthansa's communications with a competitor whilst ASL Senior Employee 3 sent ASL's draft bid to ASL Agent 1 for his comments. On 30 March 2012, ASL sent a copy of its final bid to ASL

Agent 1's private e-mail address for review. ASL Agent 1 replied, commenting to the effect that it helped to see the competitor's offer first.

71. On 4 April 2012, ASL Agent 1 asked to see ASL's measurements for the video-arm of the seat; the next day, ASL Agent 1 compared the pricing structures of ASL and a competitor and then sent the result to ASL. Later that day, ASL submitted its bid to Lufthansa with a total price that was €159,807.25 lower than the initial proposal sent the day before to ASL Agent 1.
72. On 19 April 2012, Lufthansa raised a number of queries relating to ASL's bid. By 24 April 2012, it had been agreed within ASL that they would ask ASL Agent 1 for help. On 22 May 2012, ASL Agent 1 e-mailed pictures of life vest pouch designs and dimensions. He added: *"P.S. You have never seen this drawing!!!"*
73. On 11 June 2012, ASL sent its revised proposal to ASL Agent 1 for review prior to submitting it to Lufthansa. ASL then submitted its proposal.
74. On 30 June 2012, ASL Agent 1 sent an e-mail to ASL Senior Employee 3 providing confidential information about the seat modifications, including an update on one competitor's efforts to win work from Lufthansa and comments on another competitor's pricing. In the same e-mail, ASL Agent 1 reassured ASL that he would do everything in his power to win the project for ASL.
75. On 6 July 2012, ASL Agent 1 informed ASL Senior Employee 3 that a competitor was putting up a fight, *"We have to keep our political involvement now more than ever until we secure the B747 order"*. The next day, ASL Senior Employee 4 sent an e-mail to ASL Senior Employee 6 within ASL:

"[ASL Senior Employee 3] will talk with you on Monday under 4 eyes and will explain further. It would be very beneficial if you and/or [ASL Senior Employee 3] could send a positive letter to DLH before Wednesday next week as they have an important 747 meeting then. As I said, [ASL Senior Employee 3] will talk with you regarding the detail plan of the attack."

76. In an e-mail on 11 July 2012, ASL Senior Employee 4 referred to possible price reductions being offered by two competitors. It is inferred that this information came from ASL Agent 1.
77. On 8 August 2012, ASL Agent 1 sent an e-mail to ASL Senior Employee 3 and ASL Senior Employee 4:

"I have done everything I can do, also put my job on risk by providing you confidential informations."

78. On 17 August 2012, ASL Agent 1 sent another e-mail to ASL Senior Employee 3 and ASL Senior Employee 4: *"I have done my best to support you guys so far."* In an email sent on 23 August 2012 ASL Agent 1 informed ASL that a competitor had just proposed a significant pricing discount and that he would *"fight hard..."* for ASL in an upcoming internal meeting. ASL went

on to offer a further price reduction by way of a €130,000 credit for spares applicable to the years 2015 to 2016 (€65,000 p.a).

79. ASL Agent 1's further efforts to support ASL are reflected in an email from ASL Senior Employee 4 to ASL Senior Employee 3 on 25 August 2012:

"I just had a long telecon with [ASL Agent 1]. I know now also all the hurdle details ... in the moment I don't think we can do anything from our side regarding 747. [ASL Agent 1] will work over the weekend on some new and additional scenarios to convince on Monday at least his team to go for ASL ... [ASL Agent 1] is trying hard and we have discussed a few possibilities."

80. On 26 August 2012, ASL Agent 1 sent an email to ASL Senior Employee 3:

"I worked the whole weekend on the presentation for the B747 Board meeting today...I am confident that I have convinced most of the people so far and that we have a 50:50 chance [re: a competitor]."

81. In response, ASL Senior Employee 3 thanked ASL Agent 1 for his *"tireless support"*.

82. On 27 August 2012, ASL Senior Employee 4 sent an e-mail to ASL Senior Employee 3 sharing information he had received from a contact at a competitor. ASL Senior Employee 4 added that this was very confidential and that ASL Agent 1 was informed about everything that was going on.

83. On 31 August 2012, ASL Agent 1 emailed ASL Senior Employee 3 from his personal email address to congratulate ASL on winning the B747 tender before adding:

"We all have reach a good stage now at DLH with a lot of opportunities for further business and I do not want to loose this!"

84. On 3 September 2012, Lufthansa confirmed that ASL would be awarded the contract. This was a direct response to ASL's email in relation to pricing. SA4 was signed on 2 October 2012. As with the other supplemental agreements, ASL Agent 1 continued to support ASL with its performance under this SA, in particular via his personal email address.

85. This agreement came to be worth £3,336,987.72 with a gross profit to ASL of £622,837.00 on that contract.

86. Towards the end of 2014, ASL Agent 1 claimed to be owed €589,629 (£468,070.97) in commission by ASL, on top of the €53,065.88 (£42,125.81) ASL Agent 1 had already been paid by ASL in relation to SA1 and SA4.

87. In June 2015, both ASL Senior Employee 3 and ASL Senior Employee 4 left ASL.

XI. ASL'S ANTI-BRIBERY AND CORRUPTION PROCEDURES

88. In December 2010, ASL engaged external legal advisers to assess its compliance with the pending implementation of the Bribery Act 2010. This review identified that the use of a relatively small number of overseas Agents represented a high bribery risk to ASL. These external legal advisers made a number of recommendations to address the risk of ASL breaching the provisions of the Bribery Act 2010. These recommendations included:
- (i) Amending standard terms and conditions to include contractual protections for cases where ASL uses overseas suppliers or agents;
 - (ii) Allocating responsibility to a senior representative to review and monitor overseas corruption risks;
 - (iii) The implementation of regular training for staff on anti-corruption compliance;
 - (iv) The implementation of internal policies and procedures within ASL to address compliance with the Bribery Act 2010;
 - (v) The implementation of a due diligence checklist to be used by ASL to assess third party suppliers/contractors.
89. To assist ASL with the implementation of these recommendations, the external legal advisers provided ASL with:
- (i) a risk assessment checklist to assist ASL with assessing bribery risks within its business;
 - (ii) a due diligence checklist to assist ASL with assessing the bribery risk presented by its third party suppliers/contractors;
 - (iii) advice on the anti-bribery provisions that could be implemented within standard ASL contracts with third party suppliers/contractors;
 - (iv) a draft 'Anti-corruption Policy and Guidelines' document that could be implemented within ASL.
90. On 27 June 2011, training on the Bribery Act 2010 was provided to some of ASL's senior managers and regional sales managers. This training included reference to the draft 'Anti-corruption Policy and Guidelines'.
91. In September 2011, a senior executive of ASL informed the external legal advisers that ASL would be adopting "a different approach". This appears to have concluded the external legal advisers work with ASL regarding compliance with the provisions of the Bribery Act 2010.
92. Save for the training session on the Bribery Act 2010 carried out on 27 June 2011, ASL did not seek to communicate its 'Anti-corruption Policy and Guidelines' to staff at any time prior to January 2014 and did not seek to implement the remaining recommendations made by their external legal advisers.

93. From the implementation of the Bribery Act 2010 on 1 July 2011 through to the beginning of 2015, ASL did not have in place adequate procedures in order to prevent bribery.