

## SCHEDULE 9

### TERMINATION ASSISTANCE

#### 1. DEFINITIONS

##### 1.1. In this schedule:

**"Assets"** means all assets, hardware, software, intellectual property and other rights used by the Supplier to provide the System and the Services in accordance with this Agreement but excluding HSE Hardware and HSE Software;

**"Asset Register"** means the register of Assets, sub-contracts and other relevant agreements to be created and maintained by the Supplier throughout the Term pursuant to paragraph 3.1.1;

**"Business Process Manual"** means a manual setting out a detailed definition of all the business processes that will be supported by the Services;

**"Emergency Exit"** means any termination of this Agreement which is a (i) termination of the whole or part of this Agreement in accordance with clause 36 (Termination), except where the period of notice given under that clause is greater than or equal to six months; (ii) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to clause 36; or (iii) wrongful termination or repudiation of this Agreement by either party;

**"Exit Manager"** means the person appointed by each party pursuant to paragraph 3.5 of for managing the parties' respective obligations under this schedule;

**"Exit Management Plan"** means the plan produced and updated by the Supplier during the Term in accordance with paragraph 5;

**"Net Book Value"** means the net book value of the relevant Asset(s) calculated in accordance with the depreciation policy of HSE at the time of their transfer to HSE in accordance with this Schedule;

**"Ordinary Exit"** means any termination of this Agreement which occurs: (i) pursuant to clause 36 (Termination) where the period of notice given by the party serving notice to terminate pursuant to such clause is greater than or equal to six months; or (ii) as a result of the expiry of the Initial Term or any Renewal Period;

**"Registers"** means has the meaning set out in paragraph 3.1;

**"System Assets"** means Commissioned Software, Systems Hardware, Systems Software and Third Party Software;

**"Termination Assistance Notice"** has the meaning set out in paragraph 6.10;

**"Termination Assistance Period"** means the period specified in the Termination Assistance Notice in which the Supplier shall provide the Termination Services as may be extended pursuant to paragraph 6.11;

**"Termination Services"** means the services and activities to be performed by the Supplier pursuant to the Exit Management Plan, including those activities listed in paragraph 6.15 and any other services required pursuant to the Termination Assistance Notice;

**"Transferring Contracts"** shall have the meaning set out in paragraph 8.2.2.

## 2. OVERVIEW

- 2.1. The Supplier is required to ensure the orderly transition of the Services from the Supplier to HSE and/or any replacement supplier in the event of termination (including partial termination) or expiry of this Agreement. This schedule sets out the principles of the exit and service transfer arrangements that are intended to achieve such orderly transition and which shall form the basis of the Exit Management Plan. For the avoidance of doubt, the Supplier shall be responsible for the overall management of the exit and service transfer arrangements.

## 3. CONTRACT LIFE OBLIGATIONS

- 3.1. During the Term the Supplier will:
  - 3.1.1. maintain the Asset Register, detailing the ownership of Assets and status as either System Assets or Supplier Hardware and the Net Book Value of such Assets, and detailing all sub contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services;
  - 3.1.2. maintain a document detailing the technical infrastructure through which the Supplier provides the Services and the System. This document should be of sufficient detail to permit HSE and/or replacement supplier to understand how the Supplier provides the System and the Services and to enable the smooth transition of the Services with the minimum of disruption,  
  
(collectively the "**Registers**"). The Supplier shall maintain the Registers in such format as is agreed between the parties and shall update the Registers from time to time and in particular in the event that Assets, sub-contracts or other relevant agreements are added to or removed from the Services. HSE shall be provided with access to these Registers during the Term.
- 3.2. The Supplier shall ensure that all System Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the System and the Services under this Agreement.
- 3.3. The Supplier shall (unless otherwise agreed by HSE in writing) procure that all sub-contracts and other agreements with third parties, which are necessary to enable HSE and/or any replacement supplier to provide the System or perform the Services in accordance with this Agreement, shall be assignable and/or capable of novation at the request of HSE to HSE (and/or its nominee) and/or any replacement supplier upon the Supplier ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by HSE.
- 3.4. Where the Supplier is unable to procure that any sub-contract or other agreement referred to in paragraph 3.3 above which the Supplier proposes to enter into after the Effective Date is assignable and/or capable of novation to HSE (and/or its nominee) and/or any replacement supplier without restriction or payment, the Supplier shall promptly notify HSE of this and the parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where HSE so directs, may include the Supplier seeking an alternative sub-contractor, to be agreed with HSE.
- 3.5. Each party will appoint an Exit Manager and provide written notification of such appointment to the other party within three months of the Effective Date. The Supplier's Exit Manager will be responsible for ensuring that the Supplier and its employees, agents and sub-contractors comply with this schedule. The Supplier will

ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this schedule. The parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Agreement and all matters connected with this schedule and each party's compliance with it.

#### **4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES**

- 4.1. Subject to paragraph 4.2 of this schedule, on reasonable notice, the Supplier shall provide to HSE and/or (subject to the potential replacement supplier entering into reasonable written confidentiality undertakings) to its potential replacement supplier, the following material and information in order to facilitate the preparation by HSE of any invitation to tender and/or to facilitate any potential replacement supplier undertaking due diligence:
- 4.1.1. details of the System and the Services;
  - 4.1.2. details of the Assets (including make, model and asset number), as set out in the Asset Register, and details of their condition and physical location;
  - 4.1.3. details of and information relating to the use of the Assets (including technical specifications);
  - 4.1.4. an inventory of HSE data in the Supplier's possession or control; and
  - 4.1.5. a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers.
- 4.2. The Supplier shall not be required to comply with the provisions of paragraph 4.1 before service of a notice to terminate this Agreement or in the period which is more than six months before the expiry of the Term.

#### **5. EXIT MANAGEMENT PLAN**

- 5.1. The Supplier will, within three months after the Effective Date, deliver to HSE an Exit Management Plan which sets out the Supplier's proposed methodology for achieving an orderly transition of Services from the Supplier to HSE and/or its replacement supplier on the expiry or termination of this Agreement and which complies with the requirements set out in paragraphs 5.2 and 5.3 below. Within 30 days after the submission of the Exit Management Plan, the parties will use their respective reasonable endeavours to agree the contents of the Exit Management Plan. If the parties are unable to agree the contents of the Exit Management Plan then such dispute shall be resolved in accordance with clause 35 (the Dispute Resolution Procedure).
- 5.2. The Exit Management Plan will contain, as a minimum:
- 5.2.1. separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as HSE shall require to enable HSE or its subcontractors to provide the Services;

- 5.2.2. the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit; and
  - 5.2.3. a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit.
- 5.3. In addition, the Exit Management Plan shall:
  - 5.3.1. document how the Services will transfer to the replacement supplier and/or HSE, including details of the processes, documentation, data transfer, systems migration, security and the segregation of HSE's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
  - 5.3.2. specify the scope of the Termination Services that may be required for the benefit of HSE (including such of the services set out in paragraph **6.15** below as are applicable) and any charges that would be payable for the provision of such Termination Services (calculated in accordance with the day rates and charging methodology set out in schedule **10** (Charges)) and detail how such services would be provided (if required), during the Termination Assistance Period;
  - 5.3.3. address each of the issues set out in this schedule to facilitate the transition of the Services from the Supplier to the replacement supplier and/or HSE with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period;
  - 5.3.4. provide a timetable and identify critical issues for providing the Termination Services; and
  - 5.3.5. set out the management structure to be put in place and employed during the Termination Assistance Period.
- 5.4. The Supplier will review and (if appropriate) update the Exit Management Plan in the first month of each **Contract Year** (commencing with the second Contract Year) to reflect changes in the Services. Following such update the Supplier will submit the revised Exit Management Plan to HSE for review. Within 30 days following submission of the revised Exit Management Plan, the parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Management Plan, based on the principles set out in this schedule and the changes that have occurred in the Services since the Exit Management Plan was last agreed. If the parties are unable to agree the contents of the revised Exit Management Plan within that 30 day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

## **6. TERMINATION SERVICES**

### **General**

- 6.1. During the Termination Assistance Period or such shorter period as HSE may require, the Supplier will continue to provide the Services (as applicable) and will, at the request of HSE pursuant to paragraph **6.12**, provide the Termination Services.
- 6.2. The costs of providing these Termination Services shall be as stated in schedule **10** (Charges).

- 6.3. During the Termination Assistance Period, the Supplier will, in addition to providing the Services and the Termination Services, provide to HSE any reasonable assistance requested by HSE to allow the Services to continue without interruption following the termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to HSE and/or its replacement supplier. The Supplier will use all reasonable endeavours to reallocate resources to provide these services without additional costs. However if this is not possible any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Management Plan will be subject to clause **20** (Change Control), discussion and agreement (which will not be unreasonably withheld or delayed by either party).
- 6.4. During the Termination Assistance Period, the Services and the Termination Services will be provided at no detriment to the Service Levels, save to the extent that the parties agree otherwise in accordance with paragraph 6.5.
- 6.5. Where the Supplier demonstrates to HSE's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet a particular Service Level(s), the parties shall vary the relevant Service Level(s) and/or the applicable Service Credits to take account of such adverse effect.
- 6.6. At HSE's request and on reasonable notice, the Supplier will deliver up-to-date Registers to HSE.
- 6.7. The parties acknowledge that the migration of the Services from the Supplier to HSE and/or its replacement supplier may be phased, such that certain of the Services are handed over before others.
- 6.8. Within 30 days after service of notice of termination by either party the Supplier will submit for HSE's approval the Exit Management Plan in a final form that can be implemented immediately.
- 6.9. The parties will meet and use their respective reasonable endeavours to agree the contents of the final form Exit Management Plan. If the parties are unable to agree the contents of the Exit Management Plan within 30 days following its delivery to HSE then such dispute shall be resolved in accordance with clause **35** (Dispute Resolution Procedure). Until the agreement of the final form Exit Management Plan, the Supplier will provide the Termination Services in accordance with the principles set out in this schedule and the last approved version of the Exit Management Plan (insofar as this still applies).

### **Notification of Requirements for Termination Services**

- 6.10. HSE shall be entitled to require the provision of Termination Services by notifying the Supplier in writing ("**Termination Assistance Notice**") at least four months prior to the date of termination or expiry of this Agreement or as soon as reasonably practicable (but in any event, not later than one month) following the service by either party of any notice to terminate. The Termination Assistance Notice shall specify the:
- 6.10.1. date from which Termination Services are required which shall be no earlier than 12 months prior to expiry of this Agreement or from the service by either party of any notice to terminate, as the case may be;
- 6.10.2. nature of the Termination Services required; and
- 6.10.3. period during which it is anticipated that Termination Services will be required which shall continue no longer than 24 months after the date that the Supplier

ceases to provide the Services and which shall be subject to the costs stated in schedule **10** (Charges), irrespective of the period during which Termination Services will be required.

- 6.11. HSE shall have an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than 20 Working Days prior to the date on which the provision of Termination Services is otherwise due to expire. HSE shall have the right to terminate its requirement for Termination Services by serving not less than 20 Working Days' written notice upon the Supplier to such effect.

### **Termination Obligations**

- 6.12. The Supplier shall comply with all of its obligations contained in the Exit Management Plan and shall, upon termination or expiry of this Agreement provide to HSE an up to date Business Process Manual.
- 6.13. At the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this schedule):
- 6.13.1. the Supplier will erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period any software containing the Commissioned Software and all HSE data;
- 6.13.2. the Supplier will return to HSE such of the following as is in the Supplier's possession or control:
- (1) all copies of HSE Software and any other software licensed by HSE to the Supplier under this Agreement;
  - (2) all materials created by the Supplier under this Agreement, the IPRs in which are owned by HSE;
  - (3) any parts of the Hardware and any other equipment which belongs to HSE; and
  - (4) any items that have been on-charged to HSE, such as consumables;
- 6.13.3. the Supplier will transfer all HSE Data (in complete, uncorrupted form) in its possession or control to HSE save to the extent (and for the limited period) that such data is required for the purposes of providing any services to HSE under this schedule or the Exit Management Plan;
- 6.13.4. the Supplier shall vacate any HSE Premises;
- 6.13.5. each party will return to the other party all Confidential Information of the other party and will certify that it does not retain the other party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the party in question for the purposes of providing or receiving any Services or Termination Services.
- 6.14. Except where this Agreement provides otherwise, all licences, leases and authorisations granted by HSE to the Supplier in relation to the Services shall be

terminated with effect from the end of the Termination Assistance Period.

### **Scope of the Termination Services**

- 6.15. The Termination Services to be provided by the Supplier shall include (without limitation) such of the following services as HSE may specify:
  - 6.15.1. ceasing all non-critical Software changes (by agreement with HSE);
  - 6.15.2. notifying the sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 6.15.3. providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by HSE and/or replacement supplier after the end of the Termination Assistance Period;
  - 6.15.4. delivering to HSE the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the 12 month period immediately prior to the commencement of the Termination Services);
  - 6.15.5. providing details of work volumes and staffing requirements over the 12 month period immediately prior to the commencement of the Termination Services;
  - 6.15.6. with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;
  - 6.15.7. providing HSE with any problem logs which have not previously been provided to HSE;
  - 6.15.8. providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re writing and implementing these during and for a period of 12 months after the Termination Assistance Period;
  - 6.15.9. providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
  - 6.15.10. reviewing all Software libraries used in connection with the Services and providing details of these to HSE and/or its replacement supplier;
  - 6.15.11. making available to HSE and/or the replacement supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff as are nominated by HSE (acting reasonably) at the time of termination or expiry. A documented plan is to be separately provided for this activity and agreed with HSE at the time of termination or expiry;
  - 6.15.12. assisting in establishing any required naming conventions;
  - 6.15.13. analysing and providing information about capacity and performance

requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;

- 6.15.14. generating a computer listing of the Source Code of Commissioned Software in a form and on media reasonably requested by HSE;
- 6.15.15. agreeing with HSE a handover plan for all of the Supplier's security responsibilities under this Agreement. The Supplier will co-operate fully in the execution of the agreed plan, providing skills and expertise of a suitable standard;
- 6.15.16. delivering copies of the production databases (with content listings) to HSE's and/or the replacement supplier's operations staff (on appropriate media) as reasonably requested by HSE;
- 6.15.17. assisting with the loading, testing and implementation of the production databases;
- 6.15.18. assisting in the execution of a parallel operation until the effective date of expiry or termination of this Agreement;
- 6.15.19. in respect of the maintenance and support of the Supplier System, providing historical performance data collated during the Term;
- 6.15.20. assisting in the execution of a parallel operation of the maintenance and support of the Supplier System until the end of the Termination Assistance Period or as otherwise specified by HSE (provided that these Services end on a date no later than the end of the Termination Assistance Period);
- 6.15.21. the provision of an information pack listing and describing the Services for use by HSE in the procurement of replacement services;
- 6.15.22. answering all reasonable questions from HSE and/or its replacement supplier regarding the Services;
- 6.15.23. agreeing with HSE and/or the replacement supplier a plan for the migration of any Systems or Services data to HSE and/or the replacement supplier. The Supplier will fully co-operate in the execution of the agreed plan, providing skills and expertise of a reasonably acceptable standard;
- 6.15.24. the provision of access to HSE and/or the replacement supplier during the Termination Assistance Period and for a period not exceeding six months afterwards for the purpose of the smooth transfer of the Services to HSE and/or the replacement supplier:
  - (1) to information and documentation relating to the transferring services that is in the possession or control of the Supplier or its sub-contractors (and the Supplier agrees and shall procure that its sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
  - (2) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its sub-contractors.



## **Disputes Relating to Termination Services**

- 6.16. Where there is any dispute between the parties regarding the manner in which the Termination Services are to be performed, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

## **7. KNOWLEDGE TRANSFER**

- 7.1. During the Termination Assistance Period, the Supplier will:
- 7.1.1. transfer all training material and provide appropriate training to those HSE and/or replacement supplier staff responsible for internal training in connection with the provision of the Services;
  - 7.1.2. provide for transfer to HSE and/or the replacement supplier of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and
  - 7.1.3. provide the Supplier and/or replacement supplier with access to such members of the Supplier's or its sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub contractors.
- 7.2. To facilitate the transfer of knowledge from the Supplier to HSE and/or its replacement supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of HSE and/or the replacement supplier.
- 7.3. The information which the Supplier shall provide to HSE and/or its replacement supplier pursuant to paragraph 7.1 above will include:
- 7.3.1. copies of up-to-date procedures and operations manuals;
  - 7.3.2. product information;
  - 7.3.3. agreements with third party suppliers of goods and services which are to be transferred to HSE;
  - 7.3.4. key support contact details for third party supplier personnel under contracts which are to be assigned or novated to HSE pursuant to this schedule;
  - 7.3.5. information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
  - 7.3.6. details of physical and logical security processes and tools which will be available to HSE; and
  - 7.3.7. any relevant interface information.
- 7.4. During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and contractors) of the replacement supplier and/or HSE access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided

that:

- 7.4.1. any such agent or personnel (including employees, consultants and contractors) having access to any Sites under this paragraph shall sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
- 7.4.2. HSE and/or the replacement supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

## **8. ASSETS, SUB-CONTRACTS AND SOFTWARE**

- 8.1. Following notice of termination of this Agreement and during the Termination Assistance Period, the Supplier will not, without HSE's prior written consent:
  - 8.1.1. terminate, enter into or vary any sub-contract;
  - 8.1.2. (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or
  - 8.1.3. terminate, enter into or vary any licence for software in connection with the Services.
- 8.2. Within 30 days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph **6.6** above, HSE will provide written notice to the Supplier setting out:
  - 8.2.1. which Assets HSE requires to be transferred to HSE and/or its replacement supplier; and
  - 8.2.2. which sub-contracts and other agreements specified in paragraph **3.3** above HSE requires to be assigned or novated to HSE and/or its replacement supplier (the **"Transferring Contracts"**),

in order for HSE and/or its replacement supplier to provide the Services at the expiry of the Termination Assistance Period. Where requested by HSE and/or its replacement supplier, the Supplier will provide all reasonable assistance to HSE and/or its replacement supplier to enable it to determine which Assets and Transferring Contracts HSE and/or its replacement supplier requires in order to provide the Services.
- 8.3. With effect from the expiry of the Termination Assistance Period, the Supplier shall assign to HSE (and/or its nominated replacement supplier), free from all liens, charges, options, encumbrances and third party rights, title to and all rights and interests in those System Assets identified by HSE pursuant to paragraph **8.2** above. Such System Assets will be acquired by HSE for a consideration not greater than their Net Book Value.
- 8.4. In respect of those Supplier Hardware that HSE has identified pursuant to paragraph **8.2**, the Supplier will either (at HSE's option, acting reasonably):
  - 8.4.1. sell such Assets to HSE and/or its replacement supplier at an agreed price; or
  - 8.4.2. offer or procure for HSE and/or its replacement supplier the use, rental or licensing of such assets (as appropriate) in each case for such period of time and on such commercial and other terms as may be agreed between the parties, acting reasonably.

- 8.5. The Supplier shall assign or procure the novation to HSE of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as HSE reasonably requires to effect this novation or assignment.
- 8.6. HSE shall:
- 8.6.1. accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract;
  - 8.6.2. once a Transferring Contract is novated or assigned to HSE and/or the replacement supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that a replacement supplier does the same.
- 8.7. The Supplier shall hold any Transferring Contracts on trust for HSE until such time as the transfer of the contract to HSE and/or the replacement supplier has been effected.
- 8.8. The Supplier shall indemnify HSE (and/or the replacement supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a sub-contract which is assigned or novated to HSE (and/or replacement supplier) pursuant to paragraph **8.5** above in relation to any matters arising prior to the date of assignment or novation of such sub-contract.

## **9. CHARGES AND APPORTIONMENTS**

- 9.1. During the Termination Assistance Period (or for such shorter period as HSE may require the Supplier to provide the Termination Services), HSE shall pay the Charges to the Supplier in respect of the Termination Services, such Charges to be calculated in accordance with schedule **10** (Charges).
- 9.2. All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Assets and sub-contracts transferred to HSE and/or the replacement supplier pursuant to paragraph 8 above shall be apportioned between HSE and the Supplier and/or the replacement supplier and the Supplier, as applicable.
- 9.3. This apportionment will be carried out as follows:
- 9.3.1. the payments will be annualised and divided by 365 to reach a daily rate;
  - 9.3.2. HSE shall be responsible for or shall procure that the replacement supplier shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
  - 9.3.3. the Supplier will be responsible for or entitled to (as the case may be) the rest of the invoice.
- 9.4. Each party shall pay and/or HSE shall procure that the replacement supplier shall pay any monies due under paragraph **9.3** as soon as reasonably practicable.