

## **ICT SERVICES AGREEMENT SCHEDULES**

### **SCHEDULE 2.2**

#### **SERVICE LEVELS**

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## **Section A**

### **Product Description**

#### **1. PRODUCT TITLE**

ICT Services Agreement - schedule 2.2 (Service Levels)

#### **2. PURPOSE OF PRODUCT**

To specify the Service Levels, the mechanism by which Service Failures will be managed and the performance monitoring and reporting regime.

#### **3. COMPOSITION**

- The schedule will be based on the form set out in Section C and should be tailored to the demands of individual procurements. It should be noted that the pro-forma at Section C sets out a regime developed in the context of a complex and high-value project. Consideration should be given whether all layers of complexity are relevant having regard to the value and nature of the deal.
- The pro-forma schedule at Section C sets out the following:
  - Part A – Service Levels
  - Part B – Performance Monitoring

#### **4. DERIVATION**

- Authority's requirements
- Bidder's proposals
- Services Description

See: Guidance Note 1 (Key Commercial Principles), section 1 - 4 (Service Levels and Service Credits)

## **5. RELATED CLAUSES & SCHEDULES**

Clauses: 10 (Service Levels)

Schedules: 2.1 (Services Description)

2.4 (Continuous Improvement)

7.1 (Charges and Invoicing)

8.1 (Governance)

## **6. ALLOCATION**

- Authority to complete details of the schedule and submit to bidders for review and discussion in the dialogue phase. Specific Service Levels set out in the Appendix to Part A of Section C will need to be developed in conjunction with the Services Description.
- Responses to this schedule will be taken into account as part of the ongoing evaluation during the procurement.

## **7. QUALITY / REVIEW**

Authority expertise: Project management, technical, procurement/commercial, legal.

## **Section B**

### **Guidance**

#### **1. Introduction**

- 1.1 Clause 10 of the Agreement states that the Contractor shall provide the Services to meet or exceed the Service Levels. The Service Levels and the method for monitoring and remedying failures are set out in schedule 2.2 (Service Levels); the associated Service Credit provisions are set out in schedule 7.1 (Charges and Invoicing).
- 1.2 The example/pro-forma in Section C sets out detailed provisions for the mechanisms required to operate a Service Level regime. In developing this schedule it is necessary to consider whether Service Levels are to apply in respect of all services to be provided and whether the full rigour of the monitoring regime should also be applied. It should be remembered that operating a complex monitoring regime for a large number of Service Levels is likely to require significant resources, both on the part of the Authority and the Contractor; in lower value or less complex projects this may not be necessary or appropriate. In addition, certain services are not suited to a service level regime and may be extremely difficult to measure. The Authority should give priority to the services and service levels which will affect the delivery of the key elements of its business.
- 1.3 Service levels must also be clearly defined, capable of objective measurement and achievable. The Authority needs to have a clear idea of what level of performance it requires before commencing dialogue with Bidders.

#### **2. Setting Service Levels**

- 2.1 The Authority should consider setting out, or requiring through the continuous improvement provisions in Schedule 2.4 (Continuous Improvement), a gradually increasing standard of Service Levels over the life of the Agreement (or particularly during the early phases following the Operational Service Commencement Date) in order to incentivise or require improvements in performance.

- 2.2 It is important to realise the impact that fairly small percentage adjustments to a Service Level can have on the standard of service. For example, in the context of a 24 x 7 service requirement, a requirement for 99.99% availability over a 12 month period will only allow for about 30 minutes of down time over the whole year whilst a 99.5% target will equate to 43 hours or so of downtime. This sensitivity can translate itself into significant cost differences and risk premiums. The Authority therefore needs to be realistic in setting Service Levels and to ensure they are not over-robust and/or not cost-effective.
- 2.3 When setting Service Levels, the Authority should:
- 2.3.1 Obtain accurate and realistic information regarding the actual needs of the users of the Service and the underlying business.
  - 2.3.2 Categorise all information according to specific elements of the Services so as to avoid creating different measures for the same performance issues.
  - 2.3.3 Consider any available historic information regarding the Authority's requirements for the Service.
  - 2.3.4 Consider any available projections for the use of the Service to ensure that it is both scalable (whether or not over pre-determined phases) and that the Service Levels and associated Service Credits can be adjusted to reflect the increased usage of the Service. For example, different Service Levels can be set to reflect different service complexities during a phased implementation and/or different demand profiles.
  - 2.3.5 Understand the impact of volume and workloads on service quality. The volume requirements of the Authority may vary during any particular month and, in fact, between months. It is necessary to consider average and peak volumes for data storage and processing.
  - 2.3.6 Consider whether or not there should be any initial period during which Service Levels are only monitored for information purposes or a more relaxed regime is applied. This may be appropriate in exceptional circumstances. The decision should take account of the transfer of risk and how much post acceptance "bedding in" is acceptable to the Authority. In

any event, it is recommended that recording and reporting of Service Level commences immediately following service commencement.

- 2.3.7 Consider any available information about industry standard Service Levels.
- 2.3.8 Consider how readily Service Levels can be measured and the degree to which this can be automated. Consideration should also be given to the balance between selecting Service Levels that are representative of the performance across several aspects of the Service and the need for measures and incentives to apply to specific individual aspects of the Service.

### **3. Compensation for poor Service delivery: the Service Credit Regime**

- 3.1 The method by which the Contractor is financially incentivised to achieve Service Levels is an integral part of any agreement relating to service delivery.
- 3.2 The Authority should consider the following key elements of a service credit regime:
  - 3.2.1 The appropriate level of performance (i.e. the level below which the value of the Service to the Authority would be significantly reduced).
  - 3.2.2 The extent of compensation arising.
  - 3.2.3 A sliding scale for increasing compensation if performance levels decrease or remain sub-standard over time (this should be proportionate to the decrease in value of the service or impact on the business of the Authority). Consideration should also be given to regimes which allow for a certain number of repeated minor breaches before any Service Credits are incurred.
  - 3.2.4 Both the Authority and the Contractor need to understand that the service credit regime is only intended to deal with a certain level of under-performance. Once the actual level of performance drops beyond that level, then the "Critical Service Level" provision should apply and the Authority should have the ability to exercise remedies other than (or in addition to) those provided by the service credit regime. It may be that only certain key Service Levels have a "Critical Service Level" or that the Service Level is measured by reference to several service streams.

3.2.5 Service Credits are best considered as a means of adjusting payment in a way that is commensurate with a reduced performance. They should not be excessive or they will be treated as penalties, which are not enforceable under English Law.

#### **4. Repeated & Persistent Failures**

4.1 The Service Credits regime may have a "ratchet" so that if poor performance continues, the number of Service credits accrued will increase (for example, the number of points for a repeat failure in the next measurement period (often monthly) may be doubled).

*[Guidance: Particular care should be taken with ratcheted service credits as this may amount to a penalty.]*

4.2 The ratchet should apply in situations where the Contractor's performance gives rise to Service Credits in consecutive months or in a given number of months over a longer rolling period. This incentivises the Contractor to resolve performance problems in particular areas and not let them persist.

#### **5. Weighting**

5.1 Services can be grouped so that some weighting can be applied to reflect the relative importance of the Services. The weighting should reflect the impact on the Authority's business of the absence of, or degradation of, those elements of the Service. Alternatively, the cost of the Service can be looked at and each group of Services can be allocated a notional Service Charge and a percentage applied to each Service element within that group of Services. If a Service Failure occurs in respect of that Service then the relevant percentage deduction is applied to the notional charge for that group of Service.

#### **6. Cap on Service Credits**

6.1 Whilst the Authority is likely to favour the idea that all the Charges are at risk over the agreed measurement period, the Contractor is likely to want to cap its liability for Service Credits at a lower level. Consideration will need to be given as to what impact the level of any cap will have on Contractor incentives and the overall price.

- 6.2 Relevant factors that may be considered in relation to the appropriate level of a cap may include:
- 6.2.1 The range of performance that is covered by the Service Level/Service Credit regime. Service Credits are designed for minor failures only. If the band of performance is narrow, the cap on Service Credits could reasonably be lower (in these circumstances, consideration should also be given to the Authority's remedies in respect of more severe failures to perform which are not covered by the Service Level regime).
  - 6.2.2 Whether the cap applies on a monthly or annual basis. For example, if an annual cap is agreed, any corresponding monthly cap could be higher than the pro rata monthly amount. However, this could result in a situation where the Authority's only remedy, in respect of any underperformance which arises towards the end of the applicable measurement period, is to sue for damages. This is unlikely to be of practical use to the Authority. Many Contractors will prefer to set a monthly cap on Service Credits. However, from the Authority's perspective an annual cap is preferred because Service Credits which are not accrued in any one month are, effectively, reserved for subsequent months in the applicable measurement period during which time more significant problems may arise.
  - 6.2.3 The extent to which the Service Credits are expressed to be the Authority's sole and exclusive remedy. If Service Credits are the exclusive remedy, then the cap on Service Credits, arguably, needs to be higher. However, if it is appropriate that Service Credits should not be a sole and exclusive remedy for the level of underperformance to which the Service Credits relate, the cap on Service Credits may be lower (i.e. if the remedy is sole and exclusive then it needs to be adequate of itself). In either event, the cap on Service Credits (including the rate at which Service Credits scale up to the cap) must be sufficient to ensure that the incurrence of Service Credits attracts the required level of management attention from the Contractor. **(Note that clause 10.5 of the Agreement provides that Service Credits are an exclusive financial remedy subject to the specific exceptions set out.)**
- 6.3 The Authority should establish what, if any, risk premium the Contractor intends to add to the Charges in return for its agreement to a Service Credit regime. The

Authority should also take into account the degree to which it is contracting for a business continuity service to mitigate the risk of under-performance.

**7. Changes to the Service Level & Service Credit Regime**

Clause 10.7 of the Agreement provides the Authority with some rights to vary the Service Levels. Over time, the Authority may also wish to add new Service Levels to reflect additional Services which are added under the Change Control Procedure. The Change Control Procedure should make specific provision for adding new Service Levels with additional Services. The parties will then need to agree, via the Change Control Procedure, new Service Levels and any impact on the overall Service Level/Service Credit regime.

**8. Earn back**

The Authority may consider allowing the Contractor the right to earn back service credits if they achieve or exceed Service Levels over a given period following an under-performance.

## Section C

### Pro – Forma / Example Schedule

*[Guidance: subject to the agreement of this schedule, the following definition(s) will need to be added to schedule I]*

- "Availability"** has the meaning given to it in paragraph 1.2 of the Appendix to Part A of schedule 2.2 (Service Levels), and **"Available"** shall be construed accordingly;
- "Core Hours"** [24 hours a day, seven days a week, 365 days a year] of [the period after ◆ until ◆ in each Working Day];
- "Critical Service Failure"** any of the following events:
- (a) the performance of the Services by the Contractor falling to, or below, any of the Service Thresholds in respect of [ ] *[Guidance: Insert details of relevant Services Levels]* in any period of [ ] months;
  - (b) the Contractor accruing a total of [ ] or more Service Points (in terms of the number of points allocated) in any period of [ ] months;
  - (c) the Contractor accruing in aggregate [ ] more Service Points (in terms of the number of points allocated) in any period of [ ] months; or
  - (d) the Contractor accruing [ ] or more Repeat Failures in any period of [ ] months;
- "Emergency Maintenance"** ad hoc and unplanned maintenance provided by the Contractor where:
- (i) the Authority reasonably suspects that the Contractor System or the Services, or any part thereof, has or may have developed a fault, and notifies the Contractor of the same; or
  - (ii) the Contractor reasonably suspects that the

Contractor System or the Services, or any part thereof, has or may have developed a fault;

- "End User"** any person authorised by the Authority to use the Contractor System and/or the Services;
- "Help Desk"** the single point of contact help desk set up and operated by the Contractor pursuant to the help desk Service described in [ ];
- "Maintenance Schedule"** shall have the meaning set out in paragraph 16.1 of Part A of schedule 2.2 (Service Levels);
- "Non-Availability"** in relation to the Contractor System or Services, that the Contractor System or Service are not Available; and **"Non-Available"** shall be construed accordingly;
- "Non-Core Hours"** the period after [ ] until [ ] in each [day] [Working Day];
- "Operating Service Level"** the minimum level of performance for a Service Level which is required by the Authority if the Contractor is to avoid the need to account to the Authority for Service Credits, which levels are identified in the Appendix to Part A of schedule 2.2 (Service Levels) as "Operating Service Levels";
- "Outline Performance Monitoring System"** has the meaning set out in paragraph 1.5 of Part B of Schedule 2.2 (Service Levels);
- "Performance Monitoring Report"** the monthly report prepared by the Contractor in accordance with paragraph 19 of Part B of schedule 2.2 (Service Levels);
- "Performance Review Meeting"** the regular meeting between the Contractor and the Authority to manage and review the Contractor's performance under the Agreement, as further described in paragraph 19.5 of Part B of schedule 2.2 (Service Levels);
- "Permitted Maintenance"** shall have the meaning set out in paragraph 16.2.3 of Part A of schedule 2.2 (Service Levels);
- "Quarter"** the first three Service Periods and each subsequent three Service Periods (or reduced period immediately prior to the end of the Term);

<b>"Quarterly Summary"</b>	the summary of the performance by the Contractor to be provided by the Contractor to the Authority pursuant to paragraph 19.4 of Part B of schedule 2.2 (Service Levels);
<b>"Repeat Failure"</b>	has the meaning given to it in paragraph 12.1 of Part A of schedule 2.2 (Service Levels);
<b>"Satisfaction Survey"</b>	a survey undertaken by the Authority pursuant to paragraph 20 of Part B of schedule 2.2 (Service Levels);
<b>"Service Downtime"</b>	any period of time during which a Service and/or System is not Available;
<b>"Service Failure"</b>	any defect in or failure of the Contractor System and/or any Service which results (or would result if End Users were, at the relevant time, using that Service) in a failure to provide the Contractor System and/or that Service in accordance with the requirements of this Agreement or which results in the provision of the Contractor System and/or that Service to End Users not complying with the requirements of this Agreement;
<b>"Service Failure Log"</b>	the hard copy and electronic version of the log created and maintained by the Contractor as part of the Services in accordance with paragraph 18 of Part B of schedule 2.2 (Service Levels);
<b>"Service Failure Report"</b>	[the first notification of a Service Failure received by the Help Desk (including from the Contractor) in respect of that Service Failure];
<b>"Service Level Report"</b>	the report which summarises the performance by the Contractor against each of the Service Levels, which report shall be prepared by the Contractor and submitted to the Authority pursuant to Paragraph 2.2 of Part A of schedule 2.2 (Service Levels);

**"Service Period"**

shall have the following meaning:

- (i) the first Service Period of this Agreement shall begin on the Operational Service Commencement Date and shall expire at the end of the calendar month in which the Operational Service Commencement Date falls; and
- (ii) after the first Service Period of this Agreement a Service Period shall be a calendar month during this Agreement save that the final Payment Month of this Agreement shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term;

*[Guidance: Service Period will be the periods in which Service Levels, Service Credits and Service Charges will be calculated. The example below provides for a calendar month period, however this can be altered to reflect requirements of the project]*

**"Service Points"**

the points that are set out in the Appendix to Part A of schedule 2.2 (Service Levels) and which shall accrue to the Contractor in the event of any failure by the Contractor to achieve an Operating Service Level;

**"Service Tolerance Threshold"**

means the level described as such for each Service Level in the Appendix to Part A of schedule 2.2 (Service Levels);

**"System Response Time"**

has the meaning given to it in Paragraph 2.2 of the Appendix to Part A of schedule 2.2 (Service Levels);

**Schedule 2.2 - Service Levels**

**9. SCOPE**

This schedule 2.2 sets out the Service Levels which the Contractor is required to achieve when delivering the Services, the mechanism by which Service Failures will be managed and the method by which the Contractor's performance of the Services by the Contractor will be monitored. This schedule comprises:

- 9.1 Part A: Service Levels; and
- 9.2 Appendix to Part A - Service Levels and Severity Levels
- 9.3 Part B: Performance Monitoring.
- 9.4 Appendix to Part B - Outline Performance Monitoring System

## PART A

### Service Levels

#### 10. PRINCIPAL POINTS

- 10.1 The objectives of the Service Levels, Service Points and Service Credits are to:
- 10.1.1 ensure that the Services are of a consistently high quality and meet the requirements of the Authority;
  - 10.1.2 provide a mechanism whereby the Authority can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the level of Service for which it has contracted to deliver; and
  - 10.1.3 incentivise the Contractor to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

#### 11. SERVICE LEVELS

- 11.1 The Appendix to this Part A of this schedule sets out Service Levels for the following Services, the performance of which the parties have agreed to measure:
- 11.1.1 [provision of the core Service;]
  - 11.1.2 [provision of the Helpdesk Service;]
  - 11.1.3 [Service Failure management;]
  - 11.1.4 [the provision of disaster recovery and business continuity services; and]
  - 11.1.5 [***Guidance: The above are included as examples only. They should be altered to reflect the exact nature of each project.***]
- 11.2 The Contractor shall monitor its performance of each of the Services referred to in paragraph 11.1 by reference to the Service Level(s) for that Service and shall send the Authority a report detailing the level of service which was achieved in accordance with the provisions of part B of this schedule 2.2.

- 11.3 The Contractor shall, at all times, provide the Services in such a manner that the Operating Service Level for each Service is achieved.
- 11.4 If the level of performance of the Contractor of any element of a Service during a Service Period:
- 11.4.1 achieves the Operating Service Level in respect of each element of the Service, no Service Points will accrue to the Contractor in respect of that element of the Service;
- 11.4.2 is below the Operating Service Level but above the Service Threshold in respect of each element of the Service, the appropriate number of Service Points will accrue to the Contractor in respect of that element of the Service;  
or
- 11.4.3 constitutes a Critical Service Failure, the Authority shall be entitled to terminate this Agreement pursuant to clause 55.1.5.6 (Termination Rights) and/or seek damages in addition to any Service Points which have already been accrued by the Contractor and for which Service Credits are payable by the Contractor to the Authority.

**12. REPEAT AND PERSISTENT FAILURES**

- 12.1 If the Contractor fails to achieve any Service Level during [ ] consecutive Service Periods or during [ ] Service Periods in any [ ] month period, the second such failure shall be a "**Repeat Failure**". Any subsequent failure by the Contractor to achieve that same Operating Service Level shall also be a Repeat Failure.
- 12.2 If any Repeat Failure occurs, the number of Service Points that shall accrue to the Contractor in respect of such Repeat Failure shall be the number of Service Points that would normally accrue in respect of an initial failure of that Service Level multiplied in accordance with the following table:

<b>Number of Repeat Failures</b>	<b>Multiplier</b>
0 (initial failure)	1
1	[ ]
2	[ ]

3	[       ]
4	[       ]
5	[       ]

**13. RELATED FAILURES**

- 13.1 If any specific Service Levels refer to both Availability and System Response Times, the System Response Times achieved by the Contractor for any period of time during a Service Period during which the relevant Service or element of a Service is determined to be Non-Available shall not be taken into account in calculating the average System Response Times over the course of that Service Period. Accordingly, the Contractor shall not incur any Service Points for failure to meet System Response Times in circumstances where such failure is a result of, and the Contractor has already incurred Service Points for, the Service being Non-Available.
- 13.2 Where a specific Service Failure occurs that causes the Contractor to miss two or more Service Levels then the Contractor shall only be deemed to have failed the Service Level which has the highest value of Service Credits applying to it, taking into account any increased Service Credits due to any Repeat Failures as described in paragraph 12.2.

**14. SERVICE CREDITS**

- 14.1 Schedule 7.1 (Charges and Invoicing) sets out the mechanism by which Service Points are converted into Service Credits.
- 14.2 The Authority shall use the performance reports provided pursuant to Part B of this schedule to, among other things, verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.
- 14.3 Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. The Contractor shall set-off the value of any Service Credits against the appropriate invoice in accordance with the provisions of schedule 7.1 (Charges and Invoicing).

## 15. NATURE OF SERVICE CREDITS

The Contractor confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Charges. Both parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance.

## 16. CONTRACTOR SYSTEM MAINTENANCE

16.1 The Contractor shall create and maintain a rolling maintenance schedule with regard to the Contractor System ("**Maintenance Schedule**") to be agreed with the Authority. The Maintenance Schedule shall be discussed and updated by the Project Board in accordance with the procedures set out in schedule 8.1 (Governance).

16.2 When the Contractor wishes to carry out any maintenance to the Contractor System (other than Emergency Maintenance), it shall ensure that:

16.2.1 the timing of the planned maintenance is in accordance with the requirements of the Maintenance Schedule or is as otherwise agreed in writing with the Authority's Representative at least [20] Working Days in advance;

16.2.2 it is carried out during Non-Core Hours;

16.2.3 once agreed with the Authority's Representative the planned maintenance (which shall be known as "**Permitted Maintenance**") is forthwith entered onto the Maintenance Schedule; and

16.2.4 the Permitted Maintenance is subsequently carried out in accordance with the Maintenance Schedule.

16.3 The Contractor will be allowed to book a maximum of [ ] hours Service Downtime for Permitted Maintenance in any one [Service Period] [Quarter] which shall take place between the hours and on the day specified in the Maintenance Schedule unless otherwise agreed in writing with the Authority. For the avoidance of doubt Permitted Maintenance shall not exceed [ ] hours per [Service Period].

16.4 Service Downtime arising due to Permitted Maintenance that is carried out by the Contractor in accordance with paragraph 16.3 will be subtracted from the total number of hours in the relevant Service Period when calculating Availability, in accordance with the Appendix to this Part A.

- 16.5 Service Points shall accrue as set out in the Appendix to this Part A if any Service Downtime occurs as a result of Emergency Maintenance undertaken by the Contractor or where maintenance undertaken by the Contractor exceeds [ ] hours in any [Service Period].
- 16.6 The Contractor shall carry out any necessary maintenance where it reasonably suspects that the Contractor System 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 Contractor System and the Services.
- 16.7 The Contractor shall give as much notice as is reasonably practicable to the Authority's Representative prior to carrying out any Emergency Maintenance.

## APPENDIX TO PART A

### Service Levels and Severity Levels

*[Guidance: You should consider making allowance in this schedule for any Service Levels which are applicable to Additional Services - see clauses 9.7 - 9.11 in the Agreement.]*

*[Guidance: Service levels can be structured in different ways. The options below show some examples]*

#### Option A

Severity levels may be measured as percentage points ranging from the required Operating Service Level and a "Service Threshold". An example could be as follows:

Service Level Title	Definition		Service Points
	Operating Service Level	99%	0
	severity level 1	98%	1
	severity level 2	97%	2
	severity level 3	96%	3
	Service Threshold	95%	4

#### Option B

Alternatively, severity levels can be described in terms of the impact as follows:

Priority	Description
Severity 1 Service Failure	<p>A Service Failure which, in the reasonable opinion of the Authority:</p> <ul style="list-style-type: none"> <li>• constitutes a loss of the Service which prevents a large group of End Users from working;</li> <li>• has a critical impact on the activities of the Authority;</li> <li>• causes significant financial loss and/or disruption to the Authority;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• results in any material loss or corruption of Authority Data.</li> </ul> <p><b>Non- exhaustive examples:</b></p> <ul style="list-style-type: none"> <li>• Loss of power to data centre causing failure of services;</li> <li>• Failure of the Service to provide user authentication service.</li> </ul>

Priority	Description
Severity 2 Service Failure	<p>A Service Failure which, in the reasonable opinion of the Authority has the potential to:</p> <ul style="list-style-type: none"> <li>• have a major (but not critical) adverse impact on the activities of the Authority's and no work around is available; or</li> <li>• cause a financial loss and/or disruption to the Authority which is more than trivial but less severe than the significant financial loss described in the definition of a Severity 1 Service Failure.</li> </ul> <p><b>Non-exhaustive examples:</b></p> <ul style="list-style-type: none"> <li>• Corruption of organisational database tables;</li> <li>• Loss of ability to update Authority Data.</li> </ul>
Severity 3 Service Failure	<p>A Service Failure which, in the reasonable opinion of the Authority, has the potential to:</p> <ul style="list-style-type: none"> <li>• have a major adverse impact on the activities of the Authority which can be reduced to a moderate adverse impact due to the availability of a work around;</li> <li>• have a moderate adverse impact on the activities of the Authority;</li> </ul> <p>or</p> <p><b>Non-exhaustive examples:</b></p> <p>Inability to access [<i>specify a type</i>] data.</p>
Severity 4 Service Failure	<p>A Service Failure which, in the reasonable opinion of the Authority has the potential to have a minor adverse impact on the provision of the Service to End Users.</p> <p><b>Non-exhaustive examples:</b></p> <p>Inability to access [<i>specify a type</i>] data.</p>
Severity 5 Service Failure	<p>A Service Failure comprising a flaw which is cosmetic and, as such, does not undermine the End User's confidence in the information being displayed.</p> <p><b>Non-exhaustive examples:</b></p> <ul style="list-style-type: none"> <li>• Spelling error;</li> <li>• Misalignment of data on screen display.</li> </ul>

*[Guidance: Both of the above options contain (by way of illustration only) a number of different severity levels. It may not be necessary to differentiate between so many different severity levels in the context of your procurement and you may wish to simplify the tables accordingly.]*

**Notes:**

- a. Severity 1 is the highest (i.e. most serious) severity level and Severity 5 is the lowest (i.e. least serious) severity level.
- b. A Service Failure which results in the Non-Availability of the Contractor System shall always be classified as either a Severity 1 or Severity 2 Service Failure.

***[Guidance: Service Levels will often include "Availability", "System Response Times" and "Help Desk Response Times". Some sample drafting is provided below to assist in the drafting of such Service Levels]***

**1 Availability**

- 1.1 The Contractor shall measure the Availability of the Contractor System and/or Operational Services and shall monitor it in accordance with the Performance Monitoring System.
- 1.2. The Contractor System and/or Operational Service shall be Available (and "Available" shall be interpreted accordingly) when:
  - 1.2.1 End Users are able to access and utilise all the functions of the Contractor System; and/or the Operational Services during the Core Hours; and
  - 1.2.2 the Contractor System is able to process the Authority's Data and to provide any required reports within the timescales set out in the Service Description (as measured on a 24 x 7 basis).
- 1.3 The Authority reserves the right to verify the Availability of the Contractor Systems and/or the Operational Services including by sending test transactions through the Contractor System or otherwise.
- 1.4 Availability shall be measured as a percentage of the total time in a Service Period, in accordance with the following formula:

$$\text{Service Availability \%} = \frac{(MP - SD) \times 100}{MP}$$

Where:

MP = Total number of minutes, excluding Permitted Maintenance, within the relevant Service Period; and

SD = Total number of minutes of Service Downtime, excluding Permitted Maintenance, in the relevant Service Period.

*[Guidance - consider introduction of weightings to deal with important periods e.g. month / quarter / year ends for financial packages; alternatively day time availability may be more important than night time therefore appropriate weightings may be relevant]*

## 2. Contractor System Response Times

2.1 The parties have agreed to measure the response times of the Contractor System and/or Services.

2.2 The Contractor System Response Time is the round trip time taken to process a message or request, and shall be measured from the moment the last packet of data which relates to a particular message is received at the external interface of the Contractor System until a response is generated and the first block of data leaves the external interface (including, for the avoidance of doubt, the time taken for any necessary processing).

2.3 The System Response Time Service Levels shall apply to the average Contractor System response times of the Contractor System and/or Services over the course of a Service Period.

2.4 The Contractor shall monitor the Contractor System Response Times of the Contractor System and/or the Services in accordance with the Performance Monitoring System, and shall provide the results of such monitoring to the Authority in accordance with the provisions of Part B of this schedule.

2.5 The following target System Response Times will apply:

Service Category	Level	Target Response (Core Hours)	Target Fix Time	Points if Target Time is not met
Operating Level	Service			0
	1			1
	2			2

3			3
Service Threshold			4

***Fix Times***

*[Guidance: Fix times should normally be assigned for each severity level of Service Failure as defined above since their impact should be common across different types of performance failure. However, exceptionally it may be necessary to assign different fix times to the same severity level according to the nature of the failure (i.e. whether it affects availability, response times or other performance attributes.)]*

**3. Help Desk Response Times**

- 3.1 The parties have agreed to measure the Help Desk response times.
- 3.2 Measurement will be based on the time taken for a Help Desk operative to answer a call. Calls receiving an automated response or placed into a queuing system shall be deemed not to have been answered.
- 3.3 The Service Levels shall apply to the average Help Desk response times over the course of a Service Period.
- 3.4 The Contractor shall monitor the Help Desk response times in accordance with the Performance Monitoring System, and shall provide the results of such monitoring to the Authority in accordance with the provisions of Part B of this schedule.
- 3.5 The following target response times will apply:

<b>Call Type</b>	<b>Target Response</b>

## PART B

### Performance Monitoring

This Part B is to be read in conjunction with schedule 8.1 (Governance).

*[Guidance: This section can be used to provide an extra level of detail over and above that set out in clause 24.4 of the Agreement (Audit)]*

#### 17. PRINCIPAL POINTS

17.1 This Part B provides the methodology for monitoring the Services:

17.1.1 to ensure that the Contractor is complying with the Service Levels; and

17.1.2 for identifying any Service Failures in the performance of the Contractor and/or delivery of the Services ("**Performance Monitoring System**").

17.2 Within [20] Working Days of the [Effective Date] the Contractor shall provide the Authority with a Performance Monitoring System which shall comply with relevant provisions of the ICT Infrastructure Library guidelines developed by the Office of Government Commerce and as a minimum, include details of the Contractor's proposals in respect of the following:

17.2.1 notifications to the Help Desk of Service Failures and other defects in the Contractor's performance and/or delivery of the Services;

17.2.2 Contractor self monitoring in accordance with the Performance Monitoring System using an industry recognised help desk tool;

17.2.3 Satisfaction Surveys;

17.2.4 performance review;

17.2.5 Authority audit;

17.2.6 the processes and systems the Contractor will put in place to monitor effectively its performance of the Services as against the Service Levels ;

17.2.7 the format and content of the Performance Monitoring Report; and

- 17.2.8 how the Contractor will comply with the obligations set out in Part B of this schedule 2.2.
- 17.3 The Authority shall notify the Contractor within [10] Working Days of its receipt of the draft Performance Monitoring System and of its response (approval or rejection) to it. The draft Performance Monitoring System shall not be deemed to have been approved if no notice of approval is given during such period. If the draft Performance Monitoring System is approved by the Authority it shall be adopted immediately.
- 17.4 If the Authority gives notice of its rejection of the draft Performance Monitoring System, it shall in such notice identify the changes it requires to be made to it. The Contractor shall amend the draft Performance Monitoring System so as to incorporate the changes required by the Authority and re-submit the amended draft Performance Monitoring System to the Authority for approval within [five] Working Days of receipt of the Authority's rejection notice. If the Authority does not approve the draft Performance Monitoring System following its resubmission to the Authority pursuant to the provisions of this paragraph 1.4, the matter shall be resolved in accordance with the Dispute Resolution Procedure.
- 17.5 An outline Performance Monitoring System ("**Outline Performance Monitoring System**") has been agreed between the Authority and the Contractor and is set out in the Appendix to this Part B of this schedule. The Outline Performance Monitoring System shall be binding upon the Contractor from the Effective Date until the Performance Monitoring System is agreed between the parties.
- 17.6 The Contractor shall ensure that the Performance Monitoring System shall be maintained and updated on a monthly basis by the Contractor as may be necessary to reflect the then current state of the Services. Any updated Performance Monitoring System shall be forwarded to the Authority for approval within [five] Working Days of receipt by the Contractor of the request from the Authority for the update. The Authority shall be entitled to require reasonable amendments to the updated Performance Monitoring System and the Contractor shall make such amendments and re-submit a further updated Performance Monitoring System to the Authority for approval. Until such time as the updated Performance Monitoring System is approved by the Authority the Performance Monitoring System then existing (that is to say prior to the update) shall continue to apply.

- 17.7 Without prejudice to the obligations imposed upon the Contractor and the rights afforded to the Authority pursuant to paragraph 1.3 of this Part B, the parties shall consider and review the Performance Monitoring System at the Project Board meetings pursuant to schedule 8.1 (Governance).
- 17.8 The Authority shall be entitled to reasonably require, and the Contractor must comply with requests for, routine changes to the Performance Monitoring System.
- 17.9 Without prejudice to the provisions of paragraphs 1.5 and 1.6 of this Part B each of the Authority and the Contractor shall have the right to propose any Changes to the Performance Monitoring System in accordance with the Change Control Procedure. For the avoidance of doubt, any requests for Changes to the Performance Monitoring System shall be dealt with via the Change Control Procedure.

## **18. REPORTING OF SERVICE FAILURES**

- 18.1 The Authority shall report all Service Failures to the Help Desk.
- 18.2 The Contractor shall ensure that all Service Failures are logged immediately on receipt of notification, on the Service Failure Log. The Authority shall have verification rights in relation to the Service Failure Log.
- 18.3 Where the Help Desk receives more than one report of the Service Failure then all such reports shall be logged on the Service Failure Log (but for the avoidance of doubt, the first report shall be deemed to be the Service Failure Report).
- 18.4 The Contractor shall ensure that, as a minimum, the following details are recorded by the Contractor in the Service Failure Log in respect of each Service Failure:
- 18.4.1 a unique report number (report numbers shall be applied sequentially);
  - 18.4.2 the date and time the report is received at the Help Desk;
  - 18.4.3 the nature and location of the Service Failure;
  - 18.4.4 the person/organisation making the report;
  - 18.4.5 the level assigned to the Service Failure by the Authority (in accordance with the Appendix to Part A of this schedule);

- 18.4.6 an estimate (produced with all due care and diligence) of the number of End Users which are affected by the Service Failure (whether they are individual users or groups of users);
- 18.4.7 the action intended to be taken or which has been taken to rectify the Service Failure;
- 18.4.8 details of any communication with the Authority's Representative in connection with the Service Failure;
- 18.4.9 notes/comments regarding any mitigating circumstances with regard to the Service Failure;
- 18.4.10 the Contractor's plans for remedying the Service Failure and/or for preventing the Service Failure from re-occurring including details where applicable of the estimated time within which such Service Failure will be remedied; and
- 18.4.11 the reasons for any inability of the Contractor to meet the Operating Service Level so as to resolve the Service Failure.
- 18.5 The Contractor shall provide to the Authority's Representative a copy of the entry in the Service Failure Log in respect of each Service Failure within [ ] hours of receipt of the Service Failure Report or within such shorter period as the Authority shall reasonably require with respect to any Service Failure which has resulted in the Contractor's performance of a Service falling below a Service Threshold and/or with respect to any Severity 1 Service Failure or Severity 2 Service Failure.
- 18.6 Whenever requested by the Authority's Representative (acting reasonably), the Contractor shall, at intervals of no more than [1 hour], provide to the Authority's Representative an up-to-date status report with respect to each Service Failure.
- 18.7 The Authority shall determine the level which relates to each Service Failure as determined in accordance with the Appendix to Part A of this schedule. The Contractor shall be entitled to challenge the level which is allocated by the Authority. Any such challenge shall not affect the obligations of the Contractor to respond to the Service Failure in accordance with the level initially allocated by the Authority.

**19. PERFORMANCE MONITORING AND PERFORMANCE REVIEW**

- 19.1 Within [10] Working Days of the end of each Service Period, the Contractor shall provide a Performance Monitoring Report to the Authority's Representative.
- 19.2 The Performance Monitoring Report shall be in the format set out in the Performance Monitoring System and shall contain, as a minimum, the following information in respect of the Service Period just ended:
  - 19.2.1 the monitoring which has been performed in accordance with the Performance Monitoring System with a summary of any issues identified by such monitoring;
  - 19.2.2 for each Service Level, the actual performance achieved over the Service Period, and that achieved over the previous [3] Service Periods;
  - 19.2.3 a summary of all Service Failures that occurred during the Measurement Period;
  - 19.2.4 the level of each Service Failure which occurred;
  - 19.2.5 which Service Failures remain outstanding and progress in resolving them;
  - 19.2.6 for any Severity 1 Service Failure occurring in the Service Period, the cause of the fault and any action being taken to reduce the likelihood of recurrence;
  - 19.2.7 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 19.2.8 the number of Service Points awarded to each Service Failure in that Service Period;
  - 19.2.9 the Service Credits to be applied in respect of that Service Period indicating the Service Failure(s) to which the Service Credits relate;
  - 19.2.10 a rolling total of the number of Service Failures that have occurred and the amount of Service Credits that have been incurred by the Contractor over the past [six] months;

- 19.2.11 relevant particulars of any aspects of the performance by the Contractor which fail to meet the requirements of the Agreement; and
- 19.2.12 such other details as the Authority may reasonably require from time to time.
- 19.3 The draft Performance Monitoring Report shall be reviewed and its contents agreed by the parties at the Performance Review Meeting which immediately follows the issue of such report in accordance with paragraph 19.5 of this Part B.
- 19.4 The Contractor shall provide the Authority's Representative with a quarterly written summary of the monthly Performance Monitoring Reports that have been prepared during that Quarter ("**Quarterly Summary**"). The Quarterly Summary shall be provided by the Contractor to the Authority within [five] Working Days of the end of each Quarter, and shall be reviewed at the Performance Review Meeting which immediately follows its issue. The Quarterly Summary shall contain such details as the Authority shall reasonably require.
- 19.5 The parties shall attend Performance Review Meetings on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the Contractor and the Authority of the Performance Monitoring Reports and Quarterly Summaries (where relevant). The Performance Review Meetings shall (unless otherwise agreed):
- 19.5.1 take place within one (1) week of the Performance Monitoring Report being issued by the Contractor;
- 19.5.2 take place at such location and time (within normal business hours) as the Authority shall reasonably require unless otherwise agreed in advance;
- 19.5.3 be attended by the Contractor's Representative and the Authority's Representative; and
- 19.5.4 be fully minuted by the Authority. The prepared minutes will be circulated by the Authority to all attendees at the relevant meeting and also to the Contractor's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Contractor's Representative and the Authority's Representative at each meeting.

- 19.6 The Authority shall be entitled to raise any additional questions and/or request any further information regarding any Service Failure.
- 19.7 The Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance by the Contractor and the calculations of the amount of Service Credits for any specified period.

## **20. SATISFACTION SURVEYS**

- 20.1 In order to assess the level of performance of the Contractor, the Authority may undertake satisfaction surveys in respect of End Users or various groups of End Users ("**Satisfaction Surveys**"). These surveys may consider:
- 20.1.1 the assessment of the Contractor's performance by the Users against the agreed Service Levels; and/or
  - 20.1.2 other suggestions for improvements to the Services.
- 20.2 The Authority shall be entitled to notify the Contractor of any aspects of their performance of the Services which the responses to the Satisfaction Surveys reasonably suggest are not meeting the Service Requirement.
- 20.3 The Contractor shall, as soon as reasonably practicable after notification from the Authority in accordance with paragraph 4.2 of this Part B ensure that such measures are taken by it as are appropriate to achieve such improvements as soon as is reasonably practicable.
- 20.4 All other suggestions for improvements to the Services shall be dealt with as part of the continuous improvement programme pursuant to schedule 2.4 (Continuous Improvement).

## **21. RECORDS**

- 21.1 The Contractor shall keep appropriate documents and records (e.g. Help Desk records, Service Failure log, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received etc) in relation to the Services being delivered and the other requirements to be satisfied. Without prejudice to the generality of the foregoing, the

Contractor shall maintain accurate records of call histories for a minimum of [12] months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Contractor shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.

- 21.2 In addition to the requirement in paragraph 21.1 of this Part B to maintain appropriate documents and records, the Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Contractor both before and after the Operational Service Commencement Date and the calculations of the amount of Service Credits for any specified period.
- 21.3 The Contractor shall ensure that the Performance Monitoring System and any variations or amendments thereto, the Service Level Log, any reports and summaries produced in accordance with this schedule and any other document or record reasonably required by the Authority are available to the Authority on-line and capable of being printed.

## **Appendix to Part B - Outline Performance Monitoring System**

*[Guidance: Insert the outline of the Performance Monitoring System here - see paragraph 1.5 of Part B]*