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SCHEDULE D6**MARKET TESTING****Version History**

Version No.	Date	Comments
1.0	31/08/06	Agreed version as at date of signature of CCN 1200
1.1	26/09/06	Minor corrections
2.0	25/01/07	Baseline copy of 1.1
6.0	16/06/09	Moving all schedules to V6.0 as agreed with Fujitsu
6.1	04/01/10	Amendments as per CCN 1268
7.0	10/05/10	Moving all schedules to V7.0 as agreed with Fujitsu
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10.0	10/09/15	Moving all Schedules to v10.0 in accordance with CCN1506
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12.0	03/07/2017	Moving all schedules to V12.0
13.0		Moving all Schedules to V13.0

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SCHEDULE D6

MARKET TESTING

1. OVERVIEW

- 1.1 This Schedule D6 defines the processes available to the Parties for Market Testing the Testable Services.

2. MARKET TESTING METHODS

- 2.1 Subject to paragraphs 5.1 and 6.1, the Market Testing method for all Testable Services shall be Benchmarking.
- 2.2 Fujitsu Services may not increase any Charges, decrease any Services Levels or (unless required by Post Office pursuant to paragraph 4.3) cease providing any Services in connection with or as a consequence of Market Testing save where Fujitsu Services participates in Competitive Tendering and is appointed by Post Office as the winning tenderer, in which case the Agreement shall be amended under the Change Control Procedure to reflect Fujitsu Services' tender as described in paragraph 4.3.3(a).
- 2.3 Governance in respect of Market Testing in terms of monitoring, review and reporting of events and progress and issue resolution shall be managed by the Commercial Relationship and overseen by the Systems Integration Partnership and Executive Relationship, as described in Schedule A2.

3. BENCHMARKING

- 3.1 The purpose of Benchmarking (the "Benchmark Purpose") is to compare the value for money of the Benchmark Services with Equivalent Services. The focus shall be on comparing the price of the Benchmark Services with market prices, but taking account of current technologies at the time of Benchmarking, and not restricted to the same technical solution as is used in the HNG-X Services.
- 3.2 The target price range for each Benchmark Service shall be as described in paragraph 3.8.
- 3.3 The Charges for the Benchmark Service to be used in Benchmarking comparisons are the Charges then set out in paragraph 2 of Schedule D1 (as adjusted in accordance with paragraph 4 of Schedule D1) for that Service for the remaining term of the Agreement, applying the volumes (in relation to any variable Charges) then forecast in the CCD entitled "Horizon Capacity Management and Business Volumes" (PA/PER/033), excluding (i) the Service Management Element, and (ii) any Gain Share payments that may be payable to Fujitsu Services in relation to cost savings in respect of that Service.
- 3.4 Fujitsu Services shall, unless paragraph 5.1.2 applies, initiate Benchmarking and unless any of paragraphs 5.1.1, 5.1.3, 6.1.1 or 6.1.3 apply procure that Benchmarking is completed in respect of each Testable Service referred to in the Benchmarking timetable in Annex 2 (as such timetable is varied in accordance with paragraph 3.5) in each

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Financial Year in which that Service is due to be Benchmarked as set out in that timetable up to and including 31st March 2015. After 31st March 2015, the Parties acknowledge and agree that there shall be no Benchmarking of Testable Services.

- 3.5 The Benchmarking timetable in Annex 2 may be revised and any Testable Services set out in Annex 1 may be added to that timetable by written agreement between the Parties, subject to the following provisions:

- 3.5.1 no more than two Testable Services shall be timetabled for Benchmarking in any Financial Year;
- 3.5.2 no Testable Service shall be timetabled for Benchmarking more than once every three Financial Years; and
- 3.5.3 no Testable Service shall be Benchmarked before the Service first becomes eligible for Benchmarking as set out in Annex 1.

If no revisions are agreed to the timetable in Annex 2 then, subject to paragraph 3.5.3, that shall be the timetable for Benchmarking. The date in the Benchmarking timetable by which a Benchmarking is due to be completed shall be put back, day for day, to the extent that Post Office unreasonably withholds or delays its agreement under paragraph 3.7.3 to the Benchmarkers' proposed approach for that Benchmarking.

- 3.6 Fujitsu Services shall procure Benchmarking from the Benchmarking consultancy who ordinarily provides benchmarking services to Fujitsu Services, provided that that person is an independent and generally recognised, within the IT industry, benchmarking consultancy in the United Kingdom (the "Benchmarkers"). The Parties acknowledge that at the date of this Agreement Fujitsu Services uses Gartner Consulting or Compass Management Consulting as its benchmarking consultant, either of which may be used by Fujitsu Services as the Benchmarkers so long as it remains an independent and generally recognised, within the IT industry, benchmarking consultancy in the United Kingdom. Any alternative benchmarking consultancy used to undertake Benchmarking that meets the requirements of the first sentence of this paragraph shall be notified by Fujitsu Services to Post Office.

- 3.7 Fujitsu Services shall procure that:

- 3.7.1 the Benchmarkers shall select services for the Benchmark Group of an appropriate standard, quality and relevance to the Benchmark Services in order to achieve the Benchmark Purpose having due regard to all relevant factors, including the nature and type of service concerned and the requirement of the service recipient in relation thereto. The Benchmark Group shall (where such services are available in the market) include examples of services which meet the same business requirements as a Benchmark Service, but which utilise more recent technology than that used to deliver the relevant Benchmark Service;
- 3.7.2 no later than 30 Working Days before the date notified by Fujitsu Services to Post Office when each Benchmarking is due to commence, Post Office shall be provided with the Benchmarkers' proposed approach to Benchmarking,

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including the Benchmark Group that is proposed and the metrics to be used in adjusting benchmark data so that comparisons can be made on a like-for-like basis;

3.7.3 without prejudice to Post Office's right under paragraph 6.1.3, the Benchmarkers shall make such changes to the approach as the Parties and the Benchmarkers consider and agree to be reasonable, such changes to the approach to be agreed no later than 20 Working Days before the Benchmarking is due to commence. Either Party may include within such changes as are requested a request that the Benchmark Group includes a service that meets the same business requirements as the Benchmark Service, irrespective of the technology used to deliver that service;

3.7.4 within 30 Working Days following the date on which a particular Benchmarking is due to be completed in accordance with the timetable referred to in paragraph 3.4, the Benchmarkers shall deliver a benchmarking report to each Party (a "Benchmarking Report"). The Benchmarking Report shall contain the documented findings and recommendations of the Benchmarkers, including any key financial and technical information supporting such recommendations; and

3.7.5 Post Office is given such direct access to the Benchmarkers and the data and information underlying the Benchmarking Report as Post Office may reasonably require in order to discuss and understand the Benchmarking Report and its assumptions.

3.8 If the Charges for the Benchmark Services (as described in paragraph 3.3) are greater than the amount "A" calculated using the following formula those Charges shall be deemed to be above the target price range, that range, for the purposes of this Schedule D6, being the range between the lowest price service in the Benchmark Group and the amount "A".

$$A = ((0.375N - Z) \times (P2 - P1)) + P1$$

where

N is the total number of services in the Benchmark Group;

Z is the integer part of 37.5% of N;

P1, having put the services in the Benchmark Group in ascending order by price (such prices having been adjusted pursuant to any agreed weighting mechanism applied by the Benchmarkers) and numbered those services consecutively starting at one for the service with the lowest price, is the price for the service numbered Z; and

P2 is the price for the service numbered Z + 1, such price having been adjusted pursuant to any agreed weighting mechanism applied by the Benchmarkers.

3.9 If, pursuant to paragraph 3.8, the Charges for the Benchmark Service are deemed to be above the target price range, within 30 days of the issue of the Benchmarking Report Fujitsu Services shall:

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- 3.9.1 either adjust its price for the Benchmark Service so that it falls within the target price range and continue to provide the Benchmark Service as previously; or
- 3.9.2 initiate Competitive Tendering in accordance with paragraph 5 to appoint a new sub-contractor to Fujitsu Services in respect of the Benchmark Service so that the Benchmark Service may be provided more cost-effectively; or
- 3.9.3 notify Post Office that (i) it does not consider it possible to provide the Benchmark Service at a price that is within the target price range and achieve an adequate gross margin on that Benchmark Service and (ii) its reasons for this conclusion.

4. COMPETITIVE TENDERING

- 4.1 The purpose of Competitive Tendering is to identify potential alternative suppliers of Competitive Tendering Services (either as potential sub-contractors to Fujitsu Services or as direct suppliers of the service to Post Office) who can offer improved value for money in providing the Competitive Tendering Services.
- 4.2 Competitive Tendering may be carried out either:
 - 4.2.1 by Fujitsu Services (for the purpose of finding a new sub-contractor), in the circumstances described in paragraph 5.1; or
 - 4.2.2 by Post Office (for the purpose of finding a new direct supplier) pursuant to paragraph 6.1.
- 4.3 Following Competitive Tendering, Post Office may decide at its sole option:
 - 4.3.1 to continue with the current Service from Fujitsu Services at the current prices;
 - 4.3.2 in the case of Competitive Tendering undertaken by Fujitsu Services where the outcome of the tender process is such that, if Fujitsu Services was to sub-contract all or part of the Competitive Tendering Service in question to an alternative service provider identified in the tender process a downward revision to the Charges would be, in the mutual opinion of the Post Office and Fujitsu Services, deliverable, to require Fujitsu Services to sub-contract such Competitive Tendering Service to such alternative service provider and revise its Charges accordingly so that the Charge for that Competitive Tendering Service shall be equivalent to the sum of: (i) the costs to Fujitsu Services of that sub-contract (which may include Interface Establishment Costs allocated to such alternative service provider), (ii) the Relevant Margin thereon, and (iii) the Service Management Element; or
 - 4.3.3 in the case of Competitive Tendering undertaken by Post Office:
 - (a) where Fujitsu Services is the winning tenderer, to continue with the Competitive Tendering Service from Fujitsu Services on a revised basis to be agreed under the Change Control Procedure, to reflect the

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specification and charges for that service tendered by Fujitsu Services, as amended and agreed with Post Office; or

- (b) where the outcome of the tender process is that an Equivalent Service to the Competitive Tendering Service is available at a price which is less than the Charges for that Competitive Tendering Service (excluding (i) the Service Management Element, and (ii) any Gain Share payments that may be payable to Fujitsu Services in relation to cost savings in respect of that Service) either:
 - (i) to invite Fujitsu Services to appoint the winning tenderer as a new subcontractor within 60 Working Days (or such other period as the Parties may agree) of such invitation and to revise its Charges for the Competitive Tendering Service on the same basis as such Charges may be revised under paragraph 4.3.2; or
 - (ii) to appoint the winning tenderer as a direct supplier to Post Office and terminate that Competitive Tendering Service (as a Terminable Service) in accordance with Clause 47.10.1 of the Agreement.

4.4 In the event that Post Office exercises its option pursuant to paragraph 4.3.3(b)(i) and either:

4.4.1 Fujitsu declines to appoint such winning tenderer; or

4.4.2 the time limit specified in paragraph 4.3.3(b)(i) expires prior to Fujitsu Services appointing the winning tenderer,

Post Office may, at its sole option, exercise its rights under paragraph 4.3.3(b)(ii), failing which paragraph 4.3.1 shall apply.

5. COMPETITIVE TENDERING BY FUJITSU SERVICES

5.1 Fujitsu Services shall undertake Competitive Tendering where:

- 5.1.1 subject to paragraph 6.1.3, the Benchmarker notifies the Parties that, in the Benchmarker's reasonable opinion, due to the lack of availability of suitable services for inclusion in the Benchmark Group or other reasons in connection with the Benchmarking process or criteria, it will not be or has not been possible to perform a satisfactory Benchmarking for that Service and the Parties agree that Competitive Tendering by Fujitsu Services may result in a downward revision to the Charges for the Testable Service in question; or
- 5.1.2 the Parties have agreed that the Testable Service is one which should be provided by Fujitsu Services through sub-contractors, with the aim that each such subcontract should be of no more than four years' duration; or

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5.1.3 Fujitsu Services fails to initiate Benchmarking of a Testable Service in accordance with paragraph 3.4, and Post Office notifies Fujitsu Services that Fujitsu Services shall initiate a competition in respect of that Testable Service in accordance with this paragraph 5; or

5.1.4 paragraph 3.9.2 applies,

and in each case Fujitsu Services shall initiate Competitive Tendering within three months.

5.2 When paragraph 5.1 applies Fujitsu Services shall carry out, or procure that an Independent Adviser (such Independent Adviser to be agreed with Post Office and such agreement not to be unreasonably withheld or delayed) conducts, Competitive Tendering in each case with a view to appointing a new sub-contractor to Fujitsu Services in respect of the Service in question so that the Service may be provided more cost-effectively.

5.3 Fujitsu Services shall ensure that:

5.3.1 once initiated in accordance with paragraph 5.1, Competitive Tendering shall be actively continued and in any event completed within six months or in accordance with any timetable agreed in writing between the Parties;

5.3.2 all invitations to tender and other key tender documents are submitted to Post Office for its approval (such approval not to be unreasonably withheld or delayed) prior to being provided to potential tenderers; and

5.3.3 Post Office is provided with copies of all tenders received, subsequent related correspondence and documentation and valuation assumptions or processes adopted from time to time throughout the tendering process and, in the event an Independent Adviser is used, is given the opportunity to discuss the tenders with that Independent Adviser.

5.4 The three month period referred to in paragraph 5.1 and the six month period referred to in paragraph 5.3.1 shall each be extended, day for day, to the extent that Post Office unreasonably withholds or delays its approval of the tender documentation referred to in paragraph 5.3.2 or otherwise delays the Competitive Tendering by Fujitsu Services in accordance with paragraphs 5.2 and 5.3.

5.5 Fujitsu Services shall disclose to any bona fide potential sub-contractor of Competitive Tendering Services (subject to the same executing an Agreed Form NDA or any other form of non-disclosure agreement mutually agreed by Post Office, Fujitsu Services and such potential sub-contractor) Confidential Information to the extent that such disclosure is reasonably required to enable that potential sub-contractor to prepare a reasonably detailed tender proposal, including an anonymised list providing details of the terms and conditions of employment of all Fujitsu Services personnel (and those personnel of its relevant sub-contractors) who are then wholly or mainly employed or engaged in the performance of the Competitive Tendering Services, to the extent such personnel may be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 if such Services were transferred (including, as a minimum, information on (i) numbers

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of personnel (employees, contractors and temporary staff), (ii) salaries and other benefits, bonuses and pensions arrangements, (iii) where readily available to Fujitsu Services, skills sets and employment grades, (iv) age and length of service profile, (v) locations of personnel and (vi) such key employee policies as shall be generally known to the relevant employees and relevant to their terms of employment or reasonable expectations).

6. COMPETITIVE TENDERING BY POST OFFICE

6.1 Subject to paragraph 6.2, Post Office shall be entitled if:

- 6.1.1 Benchmarking by Fujitsu Services pursuant to paragraph 3.4 in respect of any Testable Service is not initiated in accordance with the Benchmarking timetable in Annex 2 (as adjusted in accordance with paragraph 3.5) or Fujitsu Services fails to procure the outputs required by paragraph 3.7 to achieve such Benchmarking or Fujitsu Services fails to comply with its obligations under paragraph 3.9 and Fujitsu Services fails to comply with written notice delivered by Post Office to Fujitsu Services within 60 days of such notice to initiate such Benchmarking or procure such outputs or comply with such obligations, or
- 6.1.2 following Benchmarking, Fujitsu Services gives notice to Post Office in accordance with paragraph 3.9.3; or
- 6.1.3 it does not agree on a reasonable ground to the Benchmarking approach to be used by the Benchmarking; or
- 6.1.4 Competitive Tendering by Fujitsu Services is not initiated within the period specified in paragraph 5.1 (as may be adjusted in accordance with paragraph 5.4); or
- 6.1.5 there is a Default by Fujitsu Services in relation to its Competitive Tendering obligations in paragraph 5.3.1 (the six month period therein as may be adjusted in accordance with paragraph 5.4),

to initiate a competition within six months respectively of (i) expiry of the 60 day notice period referred to in paragraph 6.1.1, (ii) receipt of notice under paragraph 3.9.3, (iii) the date the Benchmarking was due to commence or (iv) expiry of the period referred to in paragraph 5.1 or (v) Fujitsu Services' Default in relation to its obligations in paragraph 5.3.1 (as the case may be), to find an alternative supplier of Equivalent Services to the Testable Service in question. The exercise, by Post Office, of any of its rights under paragraphs 6.1.1, 6.1.4 and 6.1.5 shall be without prejudice to any other rights or remedies available to Post Office in such circumstances.

- 6.2 Post Office may choose to appoint an Independent Adviser to run such a competition on its behalf, such Independent Adviser to be agreed with Fujitsu Services (such agreement not to be unreasonably withheld or delayed).
- 6.3 Fujitsu Services shall (subject to any applicable legislation or regulations) be entitled to participate as a tenderer in any such competition. If it participates in such competition, Fujitsu Services shall submit its tender in the same way and to the same timescale as

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other tenderers and shall not have access to the financial information in respect of any other tender.

- 6.4 Unless Fujitsu Services exercises or intends to exercise its right under paragraph 6.3 to participate as a tenderer in the competition, Fujitsu Services shall provide Post Office or the Independent Adviser (as the case may be) with such assistance as may reasonably be required to facilitate such a competition, including managing all or any part of the competition should Post Office or the Independent Adviser ask it to do so.
- 6.5 Fujitsu Services shall disclose to any bona fide potential replacement provider of Competitive Tendering Services (subject to the same executing an Agreed Form NDA or any other form of non-disclosure agreement mutually agreed by Post Office, Fujitsu Services and such potential replacement provider) Confidential Information to the extent that such disclosure is reasonably required to enable that potential replacement provider to prepare a reasonably detailed tender proposal.
- 6.6 Where in accordance with this paragraph 6 Post Office seeks a tender or tenders for a third party contractor to provide Equivalent Services to those of a Competitive Tendering Service, Fujitsu Services shall:
- 6.6.1 to the extent it can reasonably do so in advance (not knowing which provider will be the winning tenderer) provide to Post Office its best estimate of any Interface Establishment Costs likely to be incurred by Post Office in connection with such services on the basis that the specification of the Competitive Tendering Service and its intended replacement service are the same;
- 6.6.2 to the extent that any proposed third party replacement service does not meet the specification of the Competitive Tendering Service, Fujitsu Services shall, in a timescale consistent with the tender process, advise Post Office of the Interface Costs likely to be incurred by Post Office in relation to the proposed replacement service; and
- 6.6.3 provide to Post Office an anonymised list with details of the terms and conditions of employment of all Fujitsu Services personnel (and those personnel of its relevant sub-contractors) who are then wholly or mainly employed or engaged in the performance of the Competitive Tendering Services, to the extent such personnel may be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 if such Services were transferred (including, as a minimum, information on (i) numbers of personnel (employees, contractors and temporary staff), (ii) salaries and other benefits, bonuses and pensions arrangements, (iii) where readily available to Fujitsu Services, skills sets and employment grades, (iv) age and length of service profile, (v) locations of personnel and (vi) such key employee policies as shall be generally known to the relevant employees and relevant to their terms of employment or reasonable expectations).

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7. COSTS OF MARKET TESTING

- 7.1 Unless expressly provided otherwise in paragraph 7.2 or 7.3 below, each Party shall bear its own costs (including, in the case of Fujitsu Services, the costs of the Benchmark) in relation to Market Testing.
- 7.2 The costs of undertaking Competitive Tendering incurred by each Party shall be borne solely by Fujitsu Services if:
- 7.2.1 the Competitive Tendering is undertaken pursuant to paragraph 6.1.2 and the outcome of that Competitive Tendering is that an Equivalent Service to the Competitive Tendering Service is available at a price which is less than the Charges for that Competitive Tendering Service (excluding (i) the Service Management Element, and (ii) any Gain Share payments that may be payable to Fujitsu Services in relation to cost savings in respect of that Service); or
- 7.2.2 the Competitive Tendering is undertaken pursuant to paragraph 6.1.1, 6.1.4 or 6.1.5.
- 7.3 The costs of undertaking Competitive Tendering incurred by each Party shall be borne solely by Post Office if:
- 7.3.1 the Competitive Tendering is undertaken pursuant to paragraph 6.1.2 and the outcome of that Competitive Tendering is that an Equivalent Service to the Competitive Tendering Service is not available at a price which is less than the Charges for that Competitive Tendering Service (excluding (i) the Service Management Element, and (ii) any Gain Share payments that may be payable to Fujitsu Services in relation to cost savings in respect of that Service); or
- 7.3.2 the Competitive Tendering is undertaken pursuant to paragraph 6.1.3.

8. PARTIAL TERMINATION, INTERFACE COSTS AND CHARGES

In the event of termination by Post Office of one or more Terminable Service(s) pursuant to paragraph 4.3.3(b)(ii), the provisions of Clause 48, Schedule E and paragraphs 9.1 and 9.2 of Schedule D1 shall apply.

9. DISPUTES

Any dispute arising in relation to this Schedule D6 (including in relation to the suitability of the Benchmark or Independent Adviser) shall be dealt with in accordance with Schedule A2 to this Agreement.

10. ASSOCIATED DOCUMENTS

- 10.1 The following CCDs are associated with this Schedule D6:

	Document Reference	Document Title
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1	PA/PER/033	Horizon Capacity Management and Business Volumes
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10.2 The following CRDs are associated with this Schedule D6:

	Document Reference	Document Title
	No CRDs Applicable	

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ANNEX 1

TESTABLE SERVICES

TESTABLE SERVICE	EARLIEST DATE FOR MARKET TESTING
Branch Network Service	1 April 2007
Service Desk Service	six months after Trigger Point T6 (Counter Application Rollout Complete)
Engineering Service	Upon Trigger Point T6 (Counter Application Rollout Complete)
Reference Data Management Service	twelve months after Trigger Point T6 (Counter Application Rollout Complete)
Third Line Software Support Service	1 November 2010
Application Support Service (Fourth Line)	1 November 2010
Data Centre Operations Service and Central Network Service (both services together constituting one Testable Service)	six months after Trigger Point T6 (Counter Application Rollout Complete)
Systems Management Service	six months after Trigger Point T6 (Counter Application Rollout Complete)
Operational Business Change (Branch Change) Service	twelve months after Trigger Point T6 (Counter Application Rollout Complete)
Reconciliation Service	twelve months after Trigger Point T6 (Counter Application Rollout Complete)
Management Information Service	twelve months after Trigger Point T6 (Counter Application Rollout Complete)

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ANNEX 2**BENCHMARKING TIMETABLE**

Financial Year ending 31 March:	Testable Services	
	First Market Test in Year	Second Market Test in Year
2007	None	
2008	Branch Network Service	None
2009	None	
2010	Engineering Service	Service Desk Service
2011	Data Centre Operations Service and Central Network Service (both services together constituting one Testable Service)	Branch Network Service
2012	Application Support Service (Fourth Line)	Third Line Software Support Service
2013	Systems Management Service	Engineering Service
2014	Service Desk Service	Branch Network Service
2015	None (unless contract extended beyond 31 March 2015 in which case additions/alterations to be agreed)	