



**Workforce
Alliance**

Collaborating for a sustainable workforce

RM6160: Non Clinical Temporary and Fixed Term Staff Terms and Conditions





Contents

- 1. Definitions used in the contract**
- 2. How the contract works**
- 3. What needs to be delivered**
- 4. Pricing and payments**
- 5. The Contracting Authority's obligations to the supplier**
- 6. Record keeping and reporting**
- 7. Supplier staff**
- 8. Rights and protection**
- 9. Intellectual Property Rights (IPRs)**
- 10. Ending the contract**
- 11. How much you can be held responsible for**
- 12. Obeying the law**
- 13. Insurance**
- 14. Data protection**
- 15. What you must keep confidential**
- 16. When you can share information**
- 17. Invalid parts of the contract**





- 18. No other terms apply**
- 19. Other people's rights in a contract**
- 20. Circumstances beyond your control**
- 21. Relationships created by the contract**
- 22. Giving up contract rights**
- 23. Transferring responsibilities**
- 24. Changing the contract**
- 25. How to communicate about the contract**
- 26. Dealing with claims**
- 27. Preventing fraud, bribery and corruption**
- 28. Equality, diversity and human rights**
- 29. Health and safety**
- 30. Environment**
- 31. Tax**
- 32. Conflict of interest**
- 33. Reporting a breach of the contract**
- 34. Resolving disputes**
- 35. Which law applies**



Framework Schedule 1 (Specification)

Framework Schedule 2 (Framework Tender)

Framework Schedule 3 (Framework Prices)

Annex 7: Pricing Structure

Framework Schedule 4 (Framework Management)

Framework Schedule 5 (Management Charges and Information)

Annex: MI Reporting Template

Framework Schedule 6 (Order Form Template and Call-Off Schedules)

Annex 1: Short Order Form Template

Framework Schedule 7 (Call-Off Award Procedure)

Annex A: Direct award criteria

Annex B: Further Competition Award Criteria

Framework Schedule 8 (Self Audit Certificate)

Framework Schedule 9 (Cyber Essentials Scheme)

Framework Schedule 10 (Security Assurance Requirements)

Joint Schedule 1 (Definitions)

Joint Schedule 2 (Variation Form)

Joint Schedule 3 (Insurance Requirements)



Joint Schedule 4 (Commercially Sensitive Information)

Joint Schedule 5 (Corporate Social Responsibility)

Joint Schedule 6 (Key Subcontractors)

Joint Schedule 7 (Financial Difficulties)

Joint Schedule 8 (Guarantee)

3. [Call-Off Guarantee

Annex 1 – Form of Guarantee

- 1. Definitions and Interpretation**
- 2. Guarantee and Indemnity**
- 3. Oligation to Enter Into a New Contract**
- 4. Demands and Notices**
- 5. Beneficiary's Protections**
- 6. Guarantor Intent**
- 7. Rights of Subrogation**
- 8. Deferral of Rights**
- 9. Representations and Warranties**
- 10. Payments and Set-Off**
- 11. Guarantor's Acknowledgement**
- 12. Assignment**





13. Severance

14. Third Party Rights

15. Survival

16. Governing Law

Joint Schedule 9 (Minimum Standards of Reliability)

Joint Schedule 10 (Rectification Plan)

Joint Schedule 11 (Processing Data)

Joint Schedule 12 (Supply Chain Visibility)

Call-Off Schedule 1 (Transparency Reports)

Call-Off Schedule 2 (Staff Transfer)

1. Definitions

2. Interpretation

3. Which parts of this Schedule apply

Part A: Staff Transfer at the Start Date

Outsourcing from the Contracting Authority

1. What is a relevant transfer

2. Indemnities the Contracting Authority must give

3. Indemnities the Supplier must give and its obligations

4. Information the Supplier must provide



5. Cabinet Office requirements

6. Pensions

Part B: Staff transfer at the Start Date

Transfer from a former Supplier on Re-procurement

- 1. What is a relevant transfer**
- 2. Indemnities given by the Former Supplier**
- 3. Indemnities the Supplier must give and its obligations**
- 4. Information the Supplier must give**
- 5. Cabinet Office requirements**
- 6. Limits on the Former Supplier's obligations**
- 7. Pensions**

Part C: No Staff Transfer on the Start Date

- 1. What happens if there is a staff transfer**
- 2. Limits on the Former Supplier's obligations**

Part D: Pensions

- 1. Definitions**
- 2. Supplier obligations to participate in the pension schemes**
- 3. Supplier obligation to provide information**
- 4. Indemnities the Supplier must give**



- 5. What happens if there is a dispute**
- 6. Other people's rights**
- 7. What happens if there is a breach of this Part D**
- 8. Transferring New Fair Deal Employees**
- 9. What happens to pensions if this Contract ends**
- 10. Broadly Comparable Pension Schemes**

Annex D1:

- 1. Definitions**
- 2. Access to equivalent pension schemes after transfer**

Annex D2: NHS Pension Schemes

- 1. Definitions**
- 2. Membership of the NHS Pension Scheme**
- 3. Access to NHS Pension Schemes after transfer**
- 4. Continuation of early retirement rights after transfer**
- 5. What the Contracting Authority do if the Supplier breaches its pension obligations**
- 6. Compensation when pension scheme access can't be provided**
- 7. Indemnities that a Supplier must give**
- 8. Sub-Contractors**

- 1. Definitions**
- 2. Supplier must become a LGPS admission body**
- 3. Right of set-off**
- 4. Supplier ceases to be an LGPS Admission Body**
- 5. Discretionary benefits**

Part E: Staff Transfer on Exit

- 1. Obligations before a Staff Transfer**
- 2. Staff Transfer when the contract ends**

Call-Off Schedule 3 (Continuous Improvement)

Call-Off Schedule 4 (Call Off Tender)

Call-Off Schedule 5 (Pricing Details)

Call-Off Schedule 6 (ICT Services)

Call-Off Schedule 7 (Key Supplier Staff)

Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

Call-Off Schedule 9 (Security)

Call-Off Schedule 10 (Exit Management)

Call-Off Schedule 11 (Installation Works)

Call-Off Schedule 12 (Clustering)

Call-Off Schedule 13 (Implementation Plan and Testing)



Call-Off Schedule 14 (Service Levels)

- 1. Definitions**
- 2. Project Management**
- 4. Role of the Operational Board**
- 3 DEFCONS and DEFFORMS**

Call-Off Schedule 22 (Lease Terms)

- 2. Definitions**
- 3. Exclusion of certain Core Terms**
- 4 Equipment Orders**
- 5 Hiring Equipment**
- 6 Title, Possession And Risk**
- 7 Supplier's Obligations**
- 8 Contracting Authorities Obligations**
- 9 Purchase Option**
- 10 Termination Of A Lease**
- 11 Consequences Of Expiry Or Termination**
- 12 The Owner**



1. Definitions used in the contract

1.1 Interpret this Contract using Joint Schedule 1 (Definitions).

2. How the contract works

2.1 The Supplier is eligible for the award of Call-Off Contracts during the Framework Contract Period.

2.2 The Authority doesn't guarantee the Supplier any exclusivity, quantity or value of work under the Framework Contract.

2.3 The Authority has paid one penny to the Supplier legally to form the Framework Contract. The Supplier acknowledges this payment.

2.4 If the Contracting Authority decides to buy Deliverables under the Framework Contract it must use Framework Schedule 7 (Call-Off Award Procedure) and must state its requirements using Framework Schedule 6 (Order Form Template and Call-Off Schedules). If allowed by the Regulations, the Contracting Authority can:

- make changes to Framework Schedule 6 (Order Form Template and Call-Off Schedules)
- create new Call-Off Schedules
- exclude optional template Call-Off Schedules
- use Special Terms in the Order Form to add or change terms

2.5 Each Call-Off Contract:

- is a separate Contract from the Framework Contract
- is between a Supplier and a Contracting Authority
- includes Core Terms, Schedules and any other changes or items in the completed Order Form
- survives the termination of the Framework Contract

2.6 Where the Supplier is approached by an eligible Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this Framework Contract before accepting their order. The Supplier will promptly notify the Authority if the eligible Contracting Authority won't use this Framework Contract.

2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.

2.8 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

- verify the accuracy of the Due Diligence Information
- properly perform its own adequate checks

2.9 The Authority and the Contracting Authority won't be liable for errors, omissions or misrepresentation of any information.

2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the Framework Tender Response and, in relation to a Call-Off Contract, the Call-Off Tender (if there is one)
- to a professional standard
- using reasonable skill and care
- using Good Industry Practice
- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract
- on the dates agreed
- that comply with Law

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

3.2 Goods clauses

3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Contracting Authority on request and for free.

3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

3.2.4 Risk in the Goods transfers to the Contracting Authority on Delivery of the Goods, but remains with the Supplier if the Contracting Authority notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Contracting Authority's working hours.

3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.

3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.

3.2.9 The Supplier must provide all tools, information and instructions the Contracting Authority needs to make use of the Goods.

3.2.10 The Supplier must indemnify the Contracting Authority against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

3.2.11 The Contracting Authority can cancel any order or part order of Goods which has not been Delivered. If the Contracting Authority gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Contracting Authority's option and request) any Goods that the Contracting Authority rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Contracting Authority's costs including repair or re-supply by a third party.

3.3 Services clauses

3.3.1 Late Delivery of the Services will be a Default of a Call-Off Contract.

3.3.2 The Supplier must co-operate with the Contracting Authority and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Contracting Authority's operations, employees or other contractors.

3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.7 The Contracting Authority is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

4 Pricing and payments

4.1 In exchange for the Deliverables, the Supplier must invoice the Contracting Authority for the Charges in the Order Form.

4.2 The Authority must invoice the Supplier for the Management Charge and the Supplier must pay it using the process in Framework Schedule 5 (Management Charges and Information).

4.3 All Charges and the Management Charge:

- exclude VAT, which is payable on provision of a valid VAT invoice
- include all costs connected with the Supply of Deliverables

4.4 The Contracting Authority must pay the Supplier the Charges within 30 days of receipt by the Contracting Authority of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.

4.5 A Supplier invoice is only valid if it:

- includes all appropriate references including the Contract reference number and other details reasonably requested by the Contracting Authority
- includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any)
- doesn't include any Management Charge (the Supplier must not charge the Contracting Authority in any way for the Management Charge)

4.6 The Contracting Authority may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Authority or the Contracting Authority can publish the details of the late payment or non-payment.

4.8 If the Authority or the Contracting Authority can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Contracting Authority, then the Authority or the Contracting Authority may either:

- require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items
- enter into a direct agreement with the Subcontractor or third party for the relevant item

4.9 If the Authority or the Contracting Authority uses Clause 4.8 then the Framework Prices (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.

4.10 The Authority and the Contracting Authority's right to enter into a direct agreement for the supply of the relevant items is subject to both:

- the relevant item being made available to the Supplier if required to provide the Deliverables
- any reduction in the Framework Prices (and where applicable, the Charges) excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges

4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

5. The Contracting Authority's obligations to the supplier

5.1 If Supplier Non-Performance arises from an Authority Cause:

- neither the Authority or the Contracting Authority can terminate a Contract under Clause 10.4.1
- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract

- the Supplier is entitled to additional time needed to make the Delivery
- the Supplier cannot suspend the ongoing supply of Deliverables

5.2 Clause 5.1 only applies if the Supplier:

- gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware
- demonstrates that the Supplier Non-Performance only happened because of the Authority Cause
- mitigated the impact of the Authority Cause

6. Record keeping and reporting

6.1 The Supplier must attend Progress Meetings with the Contracting Authority and provide Progress Reports when specified in the Order Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for 7 years after the End Date.

6.3 The Supplier must allow any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit.

6.4 The Supplier must provide information to the Auditor and reasonable co-operation at their request.

6.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

- tell the Relevant Authority and give reasons
- propose corrective action
- provide a deadline for completing the corrective action

6.6 The Supplier must provide the Authority with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:

- the methodology of the review
- the sampling techniques applied
- details of any issues
- any remedial action taken

6.7 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

7. Supplier staff

7.1 The Supplier Staff involved in the performance of each Contract must:

- be appropriately trained and qualified
- be vetted using Good Industry Practice and the Security Policy
- comply with all conduct requirements when on the Contracting Authority's Premises

7.2 Where a Contracting Authority decides one of the Supplier's Staff isn't suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.



7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Contracting Authority's Premises and say why access is required.

7.5 The Supplier indemnifies the Authority and the Contracting Authority against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8. Rights and protection

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform each Contract
- each Contract is executed by its authorised representative
- it is a legally valid and existing organisation incorporated in the place it was formed
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract
- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract
- it is not impacted by an Insolvency Event
- it will comply with each Call-Off Contract

8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies both the Authority and every Contracting Authority against each of the following:

- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract
- non-payment by the Supplier of any tax or National Insurance

8.4 All claims indemnified under this Contract must use Clause 26.

8.5 The Authority or a Contracting Authority can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.

8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Authority and every Contracting Authority.

8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Contracting Authority's benefit by the Supplier.

9. Intellectual Property Rights (IPRs)

9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Contracting Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:

- receive and use the Deliverables
- make use of the deliverables provided by a Replacement Supplier

9.2 Any New IPR created under a Contract is owned by the Contracting Authority. The Contracting Authority gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.

9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.

9.5 If there is an IPR Claim, the Supplier indemnifies the Authority and each Contracting Authority against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Contracting Authority's sole option, either:

- obtain for the Authority and the Contracting Authority the rights in Clause 9.1 and 9.2 without infringing any third party IPR
- replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables

10. Ending the contract

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

10.3 Ending the contract without a reason

10.3.1 The Authority has the right to terminate the Framework Contract at any time without reason or liability by giving the Supplier at least 30 days' notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.3.2 Each Contracting Authority has the right to terminate their Call-Off Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.4 When the Authority or the Contracting Authority can end a contract

10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- there's a Supplier Insolvency Event
- there's a Contract Default that is not corrected in line with an accepted Rectification Plan
- the Relevant Authority rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- there's any material default of the Contract
- there's a Default of Clauses 2.10, 9, 14, 15, 27, 32 or Framework Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract
- there's a consistent repeated failure to meet the Performance Indicators in Framework Schedule 4 (Framework Management)
- there's a Change of Control of the Supplier which isn't pre-approved by the Relevant Authority in writing
- there's a Variation to a Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations
- the Supplier or its Affiliates embarrass or bring the Authority or the Contracting Authority into disrepute or diminish the public trust in them

10.4.2 The Authority may terminate the Framework Contract if a Contracting Authority terminates a Call-Off Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If there is a Default, the Relevant Authority can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.4.4 When the Relevant Authority receives a requested Rectification Plan it can either:

- reject the Rectification Plan or revised Rectification Plan, giving reasons
- accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties

10.4.5 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:

- must give reasonable grounds for its decision
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days

10.4.6 If any of the events in 73 (1) (a) to (c) of the Regulations happen, the Relevant Authority has the right to immediately terminate the Contract and Clause 10.5.2 to 10.5.7 applies.

10.5 What happens if the contract ends

Where the Relevant Authority terminates a Contract under Clause 10.4.1 all of the following apply:

10.5.1 The Supplier is responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.5.2 The Contracting Authority's payment obligations under the terminated Contract stop immediately.

10.5.3 Accumulated rights of the Parties are not affected.

10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.

10.5.5 The Supplier must promptly return any of the Authority or the Contracting Authority's property provided under the terminated Contract.

10.5.6 The Supplier must, at no cost to the Authority or the Contracting Authority, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.5.7 The following Clauses survive the termination of each Contract: 3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

10.6 When the supplier can end the contract

10.6.1 The Supplier can issue a Reminder Notice if the Contracting Authority does not pay an undisputed invoice on time. The Supplier can terminate a Call-Off Contract if the Contracting Authority fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

10.6.2 If a Supplier terminates a Call-Off Contract under Clause 10.6.1:

- the Contracting Authority must promptly pay all outstanding Charges incurred to the Supplier
- the Contracting Authority must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated
- Clauses 10.5.4 to 10.5.7 apply

10.7 When subcontracts can be ended

At the Contracting Authority's request, the Supplier must terminate any Subcontracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved by the Relevant Authority in writing
- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4

- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority

10.8 Partially ending and suspending the contract

10.8.1 Where the Authority has the right to terminate the Framework Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Call-Off Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Call-Off Contracts that have already been signed.

10.8.2 Where the Authority has the right to terminate a Framework Contract it is entitled to terminate all or part of it.

10.8.3 Where the Contracting Authority has the right to terminate a Call-Off Contract it can terminate or suspend (for any period), all or part of it. If the Contracting Authority suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.8.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.8.5 The Parties must agree any necessary Variation required by Clause 10.8 using the Variation Procedure, but the Supplier may not either:

- reject the Variation
- increase the Charges, except where the right to partial termination is under Clause 10.3

10.8.6 The Contracting Authority can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.8.

11. How much you can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under this Framework Contract (whether in tort, contract or otherwise) is no more than £100,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Call-Off Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Call-Off Order Form

11.3 No Party is liable to the other for:

- any indirect Losses
- Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect)

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors

- its liability for bribery or fraud or fraudulent misrepresentation by it or its employees
- any liability that cannot be excluded or limited by Law
- its obligation to pay the required Management Charge or Default Management Charge

11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3, 9.5, 12.2 or 14.8 or Call-Off Schedule 2 (Staff Transfer) of a Contract.

11.6 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.

11.7 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:

- Deductions
- any items specified in Clause 11.5

11.8 If more than one Supplier is party to a Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

12. Obeying the law

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).

12.2 The Supplier indemnifies the Authority and every Contracting Authority against any costs resulting from any Default by the Supplier relating to any applicable Law to do with a Contract.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

13. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

14. Data protection

14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).

14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Contracting Authority copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.

14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:

- tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier
- restore the Government Data itself or using a third party

14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless the Authority or the Contracting Authority is at fault.

14.8 The Supplier:

- must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading
- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice
- securely erase all Government Data and any copies it holds when asked to do so by the Authority or the Contracting Authority unless required by Law to retain it
- indemnifies the Authority and each Contracting Authority against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

15. What you must keep confidential

15.1 Each Party must:

- keep all Confidential Information it receives confidential and secure
- not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract
- immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure
- if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party
- if the information was given to it by a third party without obligation of confidentiality
- if the information was in the public domain at the time of the disclosure
- if the information was independently developed without access to the Disclosing



Party's Confidential Information

- to its auditors or for the purposes of regulatory requirements
- on a confidential basis, to its professional advisers on a need-to-know basis
- to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010

15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 The Authority or the Contracting Authority may disclose Confidential Information in any of the following cases:

- on a confidential basis to the employees, agents, consultants and contractors of the Authority or the Contracting Authority
- on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Authority or the Contracting Authority transfers or proposes to transfer all or any part of its business to
- if the Authority or the Contracting Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions
- where requested by Parliament
- under Clauses 4.7 and 16

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.

16.2 Within the required timescales the Supplier must give the Authority and each Contracting Authority full co-operation and information needed so the Contracting Authority can:

- publish the Transparency Information
- comply with any Freedom of Information Act (FOIA) request
- comply with any Environmental Information Regulations (EIR) request

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision, which does not need to be reasonable.



17. Invalid parts of the contract

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond your control

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

- provides a Force Majeure Notice to the other Party
- uses all reasonable measures practical to reduce the impact of the Force Majeure Event

20.2 Either party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under Clause 20.2:

- each party must cover its own Losses
- Clause 10.5.2 to 10.5.7 applies

21. Relationships created by the contract

No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

22. Giving up contract rights

A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

23. Transferring responsibilities

23.1 The Supplier can not assign a Contract without the Relevant Authority's written consent.

23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Relevant Authority.

23.3 When the Authority or the Contracting Authority uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that the Authority or the Contracting Authority specifies.

23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If the Authority or the Contracting Authority asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- their name
- the scope of their appointment
- the duration of their appointment

24. Changing the contract

24.1 Either Party can request a Variation to a Contract which is only effective if agreed in writing and signed by both Parties

24.2 The Supplier must provide an Impact Assessment either:

- with the Variation Form, where the Supplier requests the Variation
- within the time limits included in a Variation Form requested by the Authority or the Contracting Authority

24.3 If the Variation to a Contract cannot be agreed or resolved by the Parties, the Authority or the Contracting Authority can either:

- agree that the Contract continues without the Variation
- terminate the affected Contract, unless in the case of a Call-Off Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them
- refer the Dispute to be resolved using Clause 34 (Resolving Disputes)

24.4 The Authority and the Contracting Authority are not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give the Authority and the Contracting Authority notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, Framework Prices or a Contract and provide evidence:

- that the Supplier has kept costs as low as possible, including in Subcontractor costs

- of how it has affected the Supplier's costs

24.7 Any change in the Framework Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

25. How to communicate about the contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

25.2 Notices to the Authority must be sent to the Authority Authorised Representative's address or email address in the Framework Award Form.

25.3 Notices to the Contracting Authority must be sent to the Contracting Authority Authorised Representative's address or email address in the Order Form.

25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Dealing with claims

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim
- give the Indemnifier reasonable assistance with the claim if requested

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money
- the amount the Indemnifier paid the Beneficiary for the Claim

27. Preventing fraud, bribery and corruption

27.1 The Supplier must not during any Contract Period:

- commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2)
- do or allow anything which would cause the Authority or the Contracting Authority, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them

27.2 The Supplier must during the Contract Period:

- create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same
- keep full records to show it has complied with its obligations under Clause 27 and give copies to the Authority or the Contracting Authority on request
- if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures

27.3 The Supplier must immediately notify the Authority and the Contracting Authority if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- been investigated or prosecuted for an alleged Prohibited Act
- been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency
- received a request or demand for any undue financial or other advantage of any kind related to a Contract
- suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act

27.4 If the Supplier notifies the Authority or the Contracting Authority as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

27.5 In any notice the Supplier gives under Clause 27.4 it must specify the:

- Prohibited Act
- identity of the Party who it thinks has committed the Prohibited Act
- action it has decided to take

28. Equality, diversity and human rights

28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:

- protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise
- any other requirements and instructions which the Authority or the Contracting Authority reasonably imposes related to equality Law

28.2 The Supplier must take all necessary steps, and inform the Authority or the Contracting Authority of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

29. Health and safety

29.1 The Supplier must perform its obligations meeting the requirements of:

- all applicable Law regarding health and safety
- the Contracting Authority's current health and safety policy while at the Contracting Authority's Premises, as provided to the Supplier

29.2 The Supplier and the Contracting Authority must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Contracting Authority Premises that relate to the performance of a Contract.

30. Environment

30.1 When working on Site the Supplier must perform its obligations under the Contracting Authority's current Environmental Policy, which the Contracting Authority must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Contracting Authority's Environmental Policy.

31. Tax

31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Authority and the Contracting Authority cannot terminate a Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 Where the Charges payable under a Contract with the Contracting Authority are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Authority and the Contracting Authority of it within 5 Working Days including:

- the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant
- other information relating to the Occasion of Tax Non-Compliance that the Authority and the Contracting Authority may reasonably need

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under a Call-Off Contract, the Supplier must both:

- comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions
- indemnify the Contracting Authority against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- the Contracting Authority may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Contracting Authority can specify the information the Worker must provide and the deadline for responding
- the Worker's contract may be terminated at the Contracting Authority's request if the Worker fails to provide the information requested by the Contracting Authority within the time specified by the Contracting Authority
- the Worker's contract may be terminated at the Contracting Authority's request if the Worker provides information which the Contracting Authority considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements
- the Contracting Authority may supply any information they receive from the Worker to HMRC for revenue collection and management

32. Conflict of interest

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to the Authority and each Contracting Authority if a Conflict of Interest happens or is expected to happen.

32.3 The Authority and each Contracting Authority can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

33. Reporting a breach of the contract

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Authority or the Contracting Authority any actual or suspected breach of:

- Law
- Clause 12.1
- Clauses 27 to 32

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Contracting Authority or a Prescribed Person.

34. Resolving disputes

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- determine the Dispute
- grant interim remedies
- grant any other provisional or protective relief

34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause

34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

35. Which law applies

This Contract and any issues arising out of, or connected to it, are governed by English law.

Framework Schedule 1 (Specification)



**Attachment 1a -
Framework Schedule**

Framework Schedule 2 (Framework Tender)

N/A

Framework Schedule 3 (Framework Prices)

1. HOW FRAMEWORK PRICES ARE USED TO CALCULATE CALL-OFF CHARGES

1.1 The Framework Prices:

1.1.1 will be used as the basis for the charges (and are maximums that the Supplier may charge) under each Call Off Contract; and

1.1.2 cannot be increased except as in accordance with this Schedule.

1.2 The Charges:

1.2.1 shall be calculated in accordance with the terms of the Call Off Contract and in particular in accordance with the terms of the Order Form;

1.2.2 cannot be increased except as specifically permitted by the Call Off Contract and in particular shall only be subject to Indexation where specifically stated in the Order Form; and

1.2.3 shall not be impacted by any change to the Framework Prices.

1.3 Any variation to the Charges payable under a Call Off Contract must be agreed between the Supplier and the Contracting Authority and implemented using the same procedure for altering Framework Prices in accordance with the provisions of this Framework Schedule 3

2. HOW FRAMEWORK PRICES ARE CALCULATED

2.1 The pricing mechanisms and prices set out in Annexes 1, 2, 3, 4, 5 and 6 shall be available for use in calculation of Framework Prices in Call Off Contracts.

3. COSTS AND EXPENSES ARE INCLUDED IN THE FRAMEWORK PRICES

3.1 The Framework Prices shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

3.1.2 costs incurred prior to the commencement of any Call Off Contract.

4. WHEN THE SUPPLIER CAN ASK TO CHANGE THE FRAMEWORK PRICES

4.1 The Framework Prices will be fixed for the duration of the Framework Agreement.

5. OTHER EVENTS THAT ALLOW THE SUPPLIER TO CHANGE THE FRAMEWORK PRICES

Framework Schedule 3 (Framework Prices)

Crown Copyright 2019

- 5.1 The Framework Prices can be varied (and Annexes Annexes 1, 2, 3, 4, 5 and 6 will be updated accordingly) due to:
 - 5.1.1 a Specific Change in Law in accordance with Clause 24;
 - 5.1.2 a review in accordance with insurance requirements in Clause 13;
 - 5.1.3 a benchmarking review in accordance with Call Off Schedule 16 (Benchmarking)
 - 5.1.4 a request from the Supplier, which it can make at any time, to decrease the Framework Prices; and

6. AGENDA FOR CHANGE PAY

- 6.1 Agenda for Change (AfC) is the current National Health Service (NHS) grading and pay system for all NHS staff, with the exception of doctors, dentists and some senior managers.
- 6.2 NHS Employers are responsible for deciding the pay rates of NHS staff and issuing pay and conditions circulars to inform staff of changes to pay and the terms and conditions for those staff to whom the Agenda for Change applies
- 6.3 These pay and conditions circulars are usually issued annually by NHS Employers.
- 6.4 The pay points affected and details of amendments to the AfC terms and conditions of service handbook are set out in the pay and conditions circulars.
- 6.5 The Authority will publish revised pay rates for Temporary Workers covered by the Agency Workers Regulations 2010 (AWR) to match any amended pay rates decided by NHS Employers pursuant to the AfC.
- 6.6 The Authority reserves the right to decide whether to amend pay rates in accordance with AfC in respect of Temporary Workers not covered by AWR (i.e. usually those Temporary Workers who are not PAYE or have worked for the same Customer for less than 12 weeks).
- 6.7 For Contracting Authorities outside of the NHS, pay rates and scales are as defined by the Contracting Authority.

Annex 1: Rates and Prices (Lot 1)

Annex 2: Rates and Prices (Lot 2)

Annex 3: Rates and Prices (Lot 3)

Annex 4: Rates and Prices (Lot 4)

Annex 5: Rates and Prices (Lot 5)

Annex 6: Rates and Prices (Lot 6)

Annex 7: Pricing Structure

1. PAY RATES

- 1.1 The Worker Pay agreed between the Parties will at all times be in accordance with:
 - 1.1.1 The national living wage and the national minimum wage, in accordance with the National Minimum Wage Act 1998 (and any subsequent amendment or re-enactment thereof) and;
 - 1.1.2 Latest pay arrangements for staff covered by NHS Terms and Conditions of Service (commonly referred to as Agenda for Change), as published from time to time by NHS Employers under a Pay and Conditions Circular and;
 - 1.1.3 All suppliers awarded onto this Framework Agreement are expected to accommodate current (and future) NHS Improvement agency rules and price caps (and other Regulatory Body's Rules and Regulations). Suppliers should endeavour to work with Contracting Authorities to innovate, and cut cost wherever possible in order to aid NHS trust compliance to NHS Improvement rules and regulations and any other Regulatory Requirements.

2. TEMPORARY WORK-SEEKER PRICING STRUCTURE

- 2.1 The charge rate for a Temporary Work-Seeker consists of:
 - 2.1.1 The pay to the Temporary Work-Seeker
 - 2.1.2 WTR (Working Time Regulations) to cover payments for holiday
 - 2.1.3 Pension Cost
 - 2.1.4 Employers National Insurance (NI) contribution
 - 2.1.5 Apprenticeship Levy (where applicable)
 - 2.1.6 Supplier Fee

3. THE PAY TO THE TEMPORARY WORK-SEEKER

- 3.1 The Supplier shall use the Agenda for Change pay structure to determine the hourly pay to the Temporary Work-Seeker. The annual salary for each of the Agenda for Change pay points will be divided by 52.2 weeks and 37.5 hours (this equates to the annual salary divided by 1957.5) to calculate the hourly pay rate.
- 3.2 The daily pay rate can be calculated by multiplying the hourly charges by 7.5 (this equates to the annual salary divided by 260). The Authority will produce Supplier rate cards containing information described in this Annex 2 which will include the hourly/daily pay rates.
- 3.3 The most current Agenda for Change pay-scales, which are set annually on 1 April by NHS Employers, will be used for Temporary Work-Seeker's

with 12 week's consecutive service as they will qualify under Agency Workers Regulations (AWR).

- 3.4 Pay Band 10a-d have been added to the Agenda for Change pay structure to accommodate higher wages outside of Agenda for Change to provide Contracting Authorities with greater flexibility; these Bands should be used for very senior managers only within the NHS. The Contracting Authority will determine the appropriate Agenda for Change pay band for the role.
- 3.5 For the first 12 weeks in placement, the Contracting Authority may use the pre AWR rates as per Annexes 1, 2, 3, 4, 5 and 6. After 12 weeks in placement, the current AfC payscale applies.

4. WORKING TIME REGULATIONS (WTR)

- 4.1 WTR is the holiday entitlement for the Temporary Work-Seeker, and is set at a statutory 28 days.
- 4.2 On 1st October 2011 AWR came into effect. This ensures that any Temporary Work-Seeker in the same job after 12 weeks will receive equal treatment to pay and basic working conditions (including annual leave).
- 4.3 The holiday allowance (WTR) for Temporary Work-Seeker's with 12 weeks service increases to 35 days in line with NHS conditions of service.
- 4.4 Contracting Authorities with different holiday entitlement to the NHS Conditions of service can calculate the appropriate holiday entitlement in accordance with their own policy.

5. PENSION COST

- 5.1 Pension Contributions shall be calculated in accordance with the latest legislation and Contracting Authority policy as appropriate.

6. EMPLOYER'S NATIONAL INSURANCE (NI) CONTRIBUTIONS

- 6.1 Suppliers charges for National Insurance shall not exceed 13.8%, and is charged on pay plus WTR over the secondary threshold.
- 6.2 Employer's National Insurance Contributions shall be calculated in accordance with latest legislation:

<https://www.gov.uk/national-insurance>

7. APPRENTICESHIP LEVY

- 7.1 Apprenticeship Levy shall be calculated in accordance with latest legislation:

<https://www.gov.uk/government/publications/apprenticeship-levy/apprenticeship-levy>

8. SUPPLIER FEE

- 8.1 The Supplier Fee for the appropriate Agenda for Change Pay Band and fee type, as listed within Annex 3 (Framework Prices) of this Framework Schedule 3 (Framework Prices), is then added to obtain the Charge Rate.

9. HIGH COST AREA SUPPLEMENTS (HCAS)

- 9.1 High Cost Area Supplements are a discretionary charge which must be agreed by the Contracting Authority before the Supplier may charge them. HCAS payments may be paid to Temporary Workers working in inner and outer London and the fringe zones.

- 9.2 HCAS are reviewed annually by NHS Employers. The HCAS, effective from 1 April 2019 can be found here:

<https://www.nhsemployers.org/pay-pensions-and-reward/agenda-for-change/nhs-terms-and-conditions-of-service-handbook/pay-in-high-cost-areas>

Updates will also be available on this website.

10. UNSOCIAL HOURS

- 10.1 Unsocial hours payments are a discretionary charge to the basic pay of the Temporary Work-Seeker which must be agreed by the Contracting Body before the Supplier may charge them. If unsocial hours uplift payment are agreed these should be calculated on the pay to the Temporary Work-Seeker, and after any HCAS has been applied where appropriate. Unsocial rates under Agenda for Change can be found here: <https://www.nhsemployers.org/tchandbook/annex-4-to-10/annex-4-working-or-providing-emergency-cover-outside-normal-hours>

11. DISCOUNTS

- 11.1 The Supplier will apply these discounts to the Supplier Fee only, as set out in Annex 1, in the following circumstances

11.1.1 Prompt payment discount where the Customer agrees to pay within the stated timescale

11.1.2 Nominated Worker discount where the Temporary Work-Seeker is introduced to the Supplier by Customer. The Supplier remains responsible for all appropriate pre-placement checks in accordance with paragraph 5 of Framework Schedule 1 - Specification.

11.1.3 Volume discount where a service level agreement (SLA) is in place based on achievement of an agreed level of business.

Framework Schedule 3 (Framework Prices)

Crown Copyright 2019

11.1.4 The discount to the Supplier Fee will be applied to the whole expenditure through the SLA, not just that exceeding the set level. For the avoidance of doubt, if the expected volume is not reached then there will be no extra paid to the Supplier; similarly if the expected volume is surpassed there will be no credit from the Supplier.

11.1.5 Over 12 week discount where the Temporary Work-Seeker is within an Assignment for a consecutive period of 12 weeks.

11.2 For the avoidance of doubt, where more than one level of discount may apply, for instance prompt payment discount and volume discount, all appropriate discounts will be added together. For example, the Supplier Fee of £1.00 for Band 1 Temporary Work-Seeker has been discounted by 1% for prompt payment and 2% for volume discounts agreed through an SLA, giving a reduced Supplier Fee of 97p.

Framework Schedule 4 (Framework Management)

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Supplier Framework Manager" has the meaning given to it in Paragraph 3.1 of this Schedule; and

"Supplier Review Meetings" has the meaning given to it in Paragraph 3.9 of this Schedule.

2. HOW THE AUTHORITY AND THE SUPPLIER WILL WORK TOGETHER

2.1 The successful delivery of this Contract will rely on the ability of the Supplier and the Authority to develop a strategic relationship immediately following the conclusion of this Contract and maintaining this relationship throughout the Framework Contract Period.

2.2 To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Supplier and the Authority.

2.3 This Schedule outlines the general structures and management activities that the Parties shall follow during the Framework Period.

3. FRAMEWORK MANAGEMENT

Framework Management Structure

3.1 The Supplier shall provide a suitably qualified nominated contact (the **"Supplier Framework Manager"**) who will take overall responsibility for delivering the Goods and/or Services required within this Contract, as well as a suitably qualified deputy to act in their absence.

3.2 The Supplier shall put in place a structure to manage this Contract in accordance with Framework Schedule 1 (Specification) and the Performance Indicators.

3.3 A governance structure will be agreed between the Parties as soon as reasonably practicable following the Framework Start Date.

3.4 Following discussions between the Parties following the Framework Start Date, where requested by the Authority the Supplier shall produce and issue to the Authority a draft supplier action plan (the **"Supplier Action Plan"**). The Authority shall not unreasonably withhold or delay its agreement to the draft Supplier Action Plan. The Supplier Action Plan shall be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of the draft Supplier Action Plan.

- 3.5 The Supplier Action Plan shall be maintained and updated on an ongoing basis by the Authority. Any changes to the Supplier Action Plan shall be notified by the Authority to the Supplier. The Supplier shall not unreasonably withhold its agreement to any changes to the Supplier Action Plan. Any such changes shall, unless the Authority otherwise Approves, be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of the Authority’s notification.
- 3.6 The Supplier agrees to comply with its obligations in the Supplier Action Plan as updated from time to time.
- 3.7 The Supplier shall comply with all requests from the Authority in regard to compliance requirements as required including:
 - 3.7.1 D&B risk failure score monitoring;
 - 3.7.2 regular evidence that the Required Insurances and Additional Insurances have been renewed and maintained;
 - 3.7.3 invoice payment performance; and
 - 3.7.4 verification of required accreditations & certifications.
- 3.8 Suppliers should participate in further competitions when identified as part of the final bidder list. Failure to bid on further competitions without an acceptable reason may result in the Supplier being suspended from the Framework, in accordance with Clause 10.8 (Partially ending and suspending the contract), for a period as decided by the Authority.

Supplier Review Meetings

- 3.9 Regular performance review meetings will take place at the Authority’s premises throughout the Framework Contract Period ("**Supplier Review Meetings**") at such times and frequencies as the Authority determine from time to time (which are anticipated to be once every Month or less). The Parties shall be flexible about the timings of these meetings.
- 3.10 The Supplier Review Meetings will review the Supplier’s performance under this Contract and, where applicable, the Supplier’s adherence to the Supplier Action Plan. The agenda for each Supplier Review Meeting shall be set by the Authority and sent to the Supplier in advance.
- 3.11 The Supplier Review Meetings shall be attended, as a minimum, by the Authority Representative(s) and the Supplier Framework Manager.

4. HOW THE SUPPLIER’S PERFORMANCE WILL BE MEASURED

- 4.1 The Supplier’s performance will be measured by the following Performance Indicators (“PI”):

Performance Indicator (PI)	PI Target	Measured by
1. FRAMEWORK MANAGEMENT		

Framework Schedule 4 (Framework Management)
 Crown Copyright 2019

All MI returns to be returned to the Authority by the fifth working day of each month.	100%	Confirmation of receipt and time of receipt by the Authority (as evidenced within the Authority's data warehouse system).
MI Report received by the Authority accurate, complete and submitted in the correct template.	100%	Confirmation of receipt and time of receipt by the Authority (as evidenced within the Authority's data warehouse system).
All invoices to be paid within 30 calendar days of issue.	100%	Confirmation of receipt and time of receipt by the Authority (as evidenced within the Authority's CODA system).
Supplier self-audit certificate to be issued to the Authority in accordance with the Framework Agreement.	100%	Confirmation of receipt and time of receipt by the Authority.
Actions identified in an Audit Report to be delivered by the dates set out in the Audit Report.	100%	Confirmation by the Authority of completion of the actions by the dates identified in the Audit Report.
Actions identified in a Health Assurance Inspection Report to be delivered by the dates set out in the Assurance Report.	100%	Confirmation by the Authority of completion of the actions by the dates identified in the Assurance Report.
2. SPEND UNDER MANAGEMENT		
In each Contract Year, the Supplier to achieve a minimum of [£X*] spend with new customers under this Framework Agreement.	100%	Score calculated by the Authority as a proportion of spend target achieved over each Contract Year.

In each Contract Year, the Supplier to achieve a minimum of [£X*] spend overall under this Framework Agreement.	100%	Spend information as submitted via the Authority data warehouse system.
No more than three (3) successive NIL Returns, or six (6) NIL Returns MI returns to the Authority overall, in a rolling twelve 12 Month period.	100%	Confirmation of receipt and time of receipt by the Authority (as evidenced within the Authority's data warehouse system).
3. OPERATIONAL EFFICIENCY / PRICE SAVINGS		
The Supplier to deliver against the Supplier Action Plan to derive further cost savings over the Framework Period via continuous improvement and innovation.	100%	Confirmation by the Authority of the cost savings achieved by the dates identified in the Supplier Action Plan.
4. DEMAND MANAGEMENT SAVINGS		
The Supplier to deliver against the Supplier Action Plan to derive further cost savings over the Framework Period continuous improvement and innovation.	100%	Confirmation by the Authority of the cost savings achieved by the dates identified in the Supplier Action Plan.
5. CUSTOMER SATISFACTION		
Services to be provided under Call-Off Agreements to the satisfaction of Contracting Authorities.	100%	Confirmation by the Authority of the Supplier's performance against customer satisfaction surveys.

- 4.2 The Supplier shall comply with the PIs and establish processes to monitor its performance against them and the Supplier's achievement of PIs shall be reviewed during the Supplier Review Meetings.
- 4.3 The Authority reserves the right to adjust, introduce new, or remove PIs throughout the Framework Contract Period, however any significant changes to PIs shall be agreed between the Authority and the Supplier in accordance with the Variation Procedure.

4.4 The Authority reserves the right to use and publish the performance of the Supplier against the PIs without restriction.

5. WHAT THE SUPPLIER MUST DO TO MEASURE THEIR PERFORMANCE

5.1 The Supplier shall cooperate in good faith with the Authority to develop efficiency tracking performance measures for this Contract. This shall include the following (but this list is not exhaustive and may be developed during the Framework Contract Period):

5.1.1 tracking reductions in product volumes and product costs, in order to demonstrate that Contracting Authorities are consuming less and buying more smartly;

5.1.2 developing additional PIs to ensure that this Contract supports the emerging target operating model across central government (particularly in line with centralised sourcing and category management, procurement delivery centres and payment processing systems and shared service centres).

5.2 The metrics that are to be implemented to measure efficiency shall be developed and agreed between the Authority and the Supplier. Such metrics shall be incorporated into the list of PIs set out in this Schedule.

5.3 The ongoing progress and development of the efficiency tracking performance measures shall be reported through framework management activities as outlined in this Schedule.

6. WHAT TO DO IF THE AUTHORITY AND THE SUPPLIER CAN'T AGREE ABOUT THE PERFORMANCE

6.1 In the event that the Authority and the Supplier are unable to agree the performance score for any PI during a Supplier Review Meeting, the disputed score shall be recorded and the matter shall be referred to the Authority Representative and the Supplier Authorised Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).

6.2 In cases where the Authority Representative and the Supplier Authorised Representative fail to reach a solution within a reasonable period of time, the matter shall be referred to the Dispute Resolution Procedure.

7. MARKETING

7.1 The Supplier shall ensure that a person is appointed as Marketing Contact who shall be responsible for the marketing obligations of the Supplier in relation to this Contract.

How the Supplier must contribute to the Authority publications

7.2 The Supplier shall supply current information relating to the Goods and/or Services it offers for inclusion in the Authority marketing materials when required by the Authority from time to time.

7.3 Such information shall be provided in such form and at such time as the Authority may request.

7.4 Failure to comply with the provisions of Paragraphs 7.2 and 7.3 may result in the Supplier's exclusion from the use of such marketing materials.

What Suppliers can say in its own publications

7.5 All marketing materials produced by the Supplier in relation to this Framework shall at all times comply with the Authority branding guidance at <https://www.gov.uk/government/publications/crown-commercial-service-supplier-logo-and-brand-guidelines>.

7.6 The Supplier will periodically update and revise its marketing materials to ensure ongoing compliance.

7.7 The Supplier shall regularly review the content of any information which appears on its website and which relates to each Contract and ensure that such information is up to date at all times.

7.8 The Supplier shall obtain all appropriate approvals prior to publishing any content in relation to a Contract with that Party using any media, including on any electronic medium, and the Supplier will ensure that such content is regularly maintained and updated. In the event that the Supplier fails to maintain or update the content, the Authority or the relevant Contracting Authority may give the Supplier notice to rectify the failure and if the failure is not rectified its reasonable satisfaction within one (1) Month of receipt of such notice, and shall have the right to remove such content itself or require that the Supplier immediately arranges the removal of such content.

8. WHERE THE AUTHORITY MIGHT OVERSEE PARTS OF THE CALL-OFF CONTRACTS

8.1 The Authority shall have oversight of certain processes which are operated under Call-Off Contracts. Such oversight shall be provided in relation to the operation of the following Schedules in each Call-Off Contract:

8.1.1 Call-Off Schedule 3 (Continuous Improvement);

8.1.2 Call-Off Schedule 8 (Business Continuity and Disaster Recovery);

8.1.3 Call-Off Schedule 9 (Security); and

8.1.4 Call-Off Schedule 16 (Benchmarking).

(the "**Supported Schedules**")

How the Supplier must support the Authority involvement

8.2 The Supplier shall co-operate as reasonably required by the Authority in relation to the Supported Schedules including:

8.2.1 provision of information;

8.2.2 allowing the Authority to act as agent for the Contracting Authorities under the Supported Schedules for such matters as the Authority may notify to the Supplier from time to time; and

8.2.3 such other matters as the Authority may notify to the Supplier from time to time.

Where the Authority might manage the process for Contracting Authorities collectively

8.3 In addition to general oversight as referred to above the following specific oversight shall apply to the individual Supported Schedules:

8.3.1 Call-Off Schedule 3 (Continuous Improvement) - the Supplier shall:

- (a) adopt a policy of continuous improvement in relation to the Deliverables;
- (b) create, maintain and update a continuous improvement plan for improving the provision of the Deliverables and/or reducing the Charges and, where requested by the Authority, incorporate any improvement identified in accordance with the Variation Procedure.

8.3.2 Call-Off Schedule 8 (Business Continuity and Disaster Recovery) - the Supplier shall:

- (a) create and hold a template BCDR plan that can be used by each Contracting Authority and shall make it available to the Authority so that it can be published to potential Contracting Authorities; and
- (b) notify the Authority in the event of the invocation or potential invocation of any BCDR plan and the Supplier shall provide such support as the Authority may reasonably require to coordinate the application of BCDR plans across all Call Off Agreements.

8.3.3 Call-Off Schedule 9 (Security) - the Supplier shall:

- (a) create and hold a template Security Plan that can be used by each Contracting Authority and shall make it available to the Authority so that it can be published to potential Contracting Authorities; and
- (b) notify the Authority in the event of breach of any Security Plan and the Supplier shall provide such support as the Authority may reasonably require to coordinate the application of Security Plans across all Call Off Agreements.

8.3.4 Call-Off Schedule 16 (Benchmarking) - the Supplier:

- (a) shall notify the Authority in the event that any benchmarker is appointed in respect of any Call Off Agreement and the Supplier recognises that the Authority may want to coordinate how benchmarking is conducted across multiple Call Off Agreements;
- (b) shall where the Authority is appointed as agent by Contracting Authorities in respect of benchmarking, co-

operate with the Authority in order to operate the benchmarking as efficiently as possible.

agrees that notwithstanding the remainder of Clause 15 (Confidentiality) in the Core Terms, the Authority shall be entitled to publish the results of any benchmarking of the Framework Prices to Other Contracting Authorities (subject to the other party entering into reasonable confidentiality undertakings).

9. MAINTENANCE OF SKILLS MATRIX

- 9.1 The Supplier shall work with the Authority to maintain the accuracy of Framework Schedule 1, Appendix H - Skills Matrix.
- 9.2 The Authority will invite the Supplier to submit an updated Skills Matrix annually, on the anniversary of the Award of the Framework Contract.
- 9.3 The Supplier shall either respond providing the updated Skills Matrix, or confirming that they do not wish to submit an updated Skills Matrix, within the timescales stipulated by the Authority.
- 9.4 The Supplier shall not be permitted to update the Skills Matrix under any other circumstance.

10. MAINTENANCE OF NHSI REGIONS

- 10.1 The Supplier shall work with the Authority to maintain the accuracy of the regions in which it has capability to operate, as recorded in Framework Schedule 1, Appendix G - NHSi Regions.
- 10.2 The Authority will the Supplier to submit an updated NHSi Regions document annually, on the anniversary of the Award of the Framework Contract.
- 10.3 The Supplier shall either respond providing the updated NHSi Regions document, or confirming that they do not wish to submit an updated NHSi Regions document, within the timescales stipulated by the Authority.
- 10.4 The Supplier shall not be permitted to update the regions in which it operates under any other circumstance.

Framework Schedule 5 (Management Charges and Information)

1. HOW TO PROVIDE MANAGEMENT INFORMATION TO THE AUTHORITY

- 1.1 The Supplier shall, at no charge, provide timely, full, accurate and complete MI Reports to the Authority which incorporate the data, in the correct format, required by the MI Reporting Template and such guidance that the Authority may issue from time to time.
- 1.2 The initial **MI Reporting Template** is set out in the Annex to this Schedule and the Authority may change it from time to time (including the data required and/or format) and issue a replacement version. The Authority shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used. The Supplier may not make any amendment to the current MI Reporting Template without the prior Approval of the Authority.

2 REPORTING PERIOD

- 2.1 **MI Reports** must be completed and returned to the Authority by the fifth working day of every month during the framework period and thereafter until all transactions relating to call-off contracts have permanently ceased. If at any point there is a period of a month where no reportable transactions occur, then a declaration must be made confirming no business has been conducted, in place of data submission.
- 2.2 In an MI Report, the Supplier should report contract data that is one month in arrears. For example, if an invoice is raised for October but the work was actually completed in September, the Supplier must report the invoice in October's MI Report and not September's. Each Order received by the Supplier must be reported only once, i.e. when the Order is received.

3. SUBMITTING THE INFORMATION

- 3.1 MI Reports shall be completed electronically and uploaded to the Authority data submission service available at:
<https://www.reportmi.crowncommercial.gov.uk>
- 3.2 The Authority may reasonably require that MI Reports be submitted by an alternative means such as email.
- 3.3 Where requested by the Authority, the Supplier shall provide Management Information to a Contracting Authority as specified by the Authority.
- 3.4 The Supplier shall:
- 3.4.1 promptly after the Framework Start Date provide an e-mail and/or postal address to which the Authority will send invoices for the Management

Charge and monthly statements relating to the invoicing of the Management Charge;

3.4.2 promptly after the Framework Start Date provide at least one contact name and contact details for the purposes of queries relating to either Management Information or invoicing; and

3.4.3 immediately notify the Authority of any changes to the details previously provided to the Authority under this Paragraph 3.4.

3.5 Invoicing queries; the Supplier shall notify the Authority of any changes to these details.”

4. HOW THE AUTHORITY CAN USE THE MANAGEMENT INFORMATION

4.1 The Supplier grants the Authority a non-exclusive, transferable, perpetual, irrevocable, royalty free licence to:

4.1.1 use and to share with any Contracting Authority, Other Contracting Authority and Relevant Person; and/or

4.1.2 publish (subject to any information that is exempt from disclosure in accordance with the provisions of FOIA, being redacted), any Management Information supplied to the Authority for the Authority’s normal operational activities including administering this Contract and/or all Call-Off Contracts, monitoring public sector expenditure, identifying savings or potential savings and planning future procurement activity.

4.2 The Authority may consult with the Supplier to inform its decision to publish information. However, the Authority shall retain absolute discretion regarding the extent, content and format of any disclosure.

4.3 Following receipt of the completed MI Report, the Authority shall invoice the Supplier for the Management Charge payable for the Month to which the MI report relates.

5. PAYING THE MANAGEMENT CHARGE

5.1 The **Management Charge** excludes VAT which is payable on provision of a valid VAT invoice.

5.2 The Supplier shall pay the Authority the Management Charge (and other charges payable in accordance with this Schedule) in cleared funds within 30 days of receipt by the Supplier of an undisputed invoice to such bank or building society account set out in the invoice.

6. WHAT HAPPENS IF THE MANAGEMENT CHARGE IS NOT PAID?

- 6.1 Payment of undisputed and valid Authority invoices should be completed within thirty (30) days. The Authority may take action on outstanding invoices by:
- 6.1.1 issuing the supplier with reminders that an invoice payment is due and/or overdue;
 - 6.1.2 charging statutory interest and charges on overdue invoices, as per the Late Payment of Commercial Debts (Interest) Act 1998;
 - 6.1.3 suspending the supplier from the agreement until such time that overdue invoices are paid; and/or
 - 6.1.4 terminating this contract.

7. WHAT HAPPENS IF THE MANAGEMENT INFORMATION IS WRONG?

- 7.1 If the Supplier or the Authority identify error(s) and/or omission(s) in historic MI Report(s), the Supplier must provide corrected MI report(s) to the Authority on or before the date when the next MI Report is due. Corrections may be either in the form of an addendum to the next MI submission, or a resubmission of existing historic returns, at the discretion of the Authority.
- 7.2 Following an **MI Failure**, the Authority may issue reminders to the Supplier and require the Supplier to correctly complete the MI Report. The Supplier shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

Meetings

- 7.3 The Supplier agrees to attend meetings between the Parties in person to discuss the circumstances of any MI Failure(s) at the request of the Authority. If the Authority requests such a meeting the Supplier shall propose and document measures as part of a Rectification Plan to ensure that the MI Failure(s) are corrected and do not occur in the future.

Admin fees

- 7.4 If, in any rolling three (3) Month period, two (2) or more MI Failures occur, the Supplier acknowledges and agrees that the Authority shall have the right to invoice the Supplier Admin Fee(s) with respect to any MI Failures as they arise in subsequent Months.
- 7.5 The Supplier acknowledges and agrees that the Admin Fees are a fair reflection of the additional costs incurred by the Authority as a result of the Supplier failing to provide Management Information as required by this Contract.

8. WHAT HAPPENS IF MANAGEMENT INFORMATION REPORTS ARE NOT PROVIDED?

8.1 If two (2) MI Reports are not provided in any rolling six (6) month period then an **MI Default** shall be deemed to have occurred and the Authority shall be entitled to:

- 8.1.1 charge and the Supplier shall pay a **Default Management Charge** in respect of the Months in which the MI Default occurred and subsequent Months in which they continue, calculated in accordance with Paragraph 8.2.1 and/or
- 8.1.2 suspend the Supplier from the agreement until such time that deficient MI reports(s) are rectified; and/or
- 8.1.3 terminate this Contract.

8.2 The Default Management Charge shall be the higher of:

- 8.2.1 the average Management Charge paid or payable by the Supplier in the previous six (6) Month period or, if the MI Default occurred within less than six (6) months from the commencement date of the first Call-Off Contract, in the whole period preceding the date on which the MI Default occurred; or
- 8.2.2 the sum of five hundred pounds (£500).

8.3 If the Supplier provides sufficient Management Information to rectify any MI Default(s) to the satisfaction of the Authority and the Management Information demonstrates that:

- 8.3.1 the Supplier has overpaid the Management Charge as a result of the application of the Default Management Charge then the Supplier shall be entitled to a refund of the overpayment, net of any Admin Fees where applicable; or
- 8.3.2 the Supplier has underpaid the Management Charge during the period when a Default Management Charge was applied, then the Authority shall be entitled to immediate payment of the balance as a debt together with interest.

Annex: MI Reporting Template

The MI Collection team in Data Insights create MI Templates. A minimum standard template is embedded below.



RM6160 Non
Clinical Staff MI Tem

Contact:

<https://www.reportmi.crowncommercial.gov.uk/>

Framework Schedule 6 (Order Form Template and Call-Off Schedules)

Order Form

CALL-OFF REFERENCE:	[Insert] Contracting Authority's contract reference number]
THE CONTRACTING AUTHORITY:	[Insert] Contracting Authority's name]
CONTRACTING AUTHORITY ADDRESS	[Insert] business address]
THE SUPPLIER:	[Insert] name of Supplier]
SUPPLIER ADDRESS:	[Insert] registered address (if registered)]
REGISTRATION NUMBER:	[Insert] registration number (if registered)]
DUNS NUMBER:	[Insert] if known]
SID4GOV ID:	[Insert] if known]

[Contracting Authority guidance: This Order Form, when completed and executed by both Parties, forms a Call-Off Contract. A Call-Off Contract can be completed and executed using an equivalent document or electronic purchase order system.

If an electronic purchasing system is used instead of signing as a hard-copy, text below must be copied into the electronic order form **starting from 'APPLICABLE FRAMEWORK CONTRACT' and up to, but not including, the Signature block**

It is essential that if you, as the Contracting Authority, add to or amend any aspect of any Call-Off Schedule, then **you must send the updated Schedule** with the Order Form to the Supplier]

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated **[Insert]** date of issue].

It's issued under the Framework Contract with the reference number RM6160 for the provision of Non Clinical Temporary and Fixed Term Staff.

CALL-OFF LOT(S):

[Insert] the relevant lot numbers **or insert** Not applicable]

CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form including the Call-Off Special Terms and Call-Off Special Schedules.
2. *Joint Schedule 1(Definitions and Interpretation) RM6160*
3. *The following Schedules in equal order of precedence:*

[Contracting Authority guidance: delete any highlighted Schedules that you do not need for this Call-Off Contract. Add any additional Schedule needed, providing it is within scope of the framework agreement. Remove any highlighting remaining before finalising this Order Form. Remove this guidance too.]

- **Joint Schedules for RM6160**
 - *Joint Schedule 2 (Variation Form)*
 - *Joint Schedule 3 (Insurance Requirements)*
 - *Joint Schedule 4 (Commercially Sensitive Information)*
 - **[Joint Schedule 6 (Key Subcontractors)]**
 - **[Joint Schedule 7 (Financial Difficulties)]**
 - **[Joint Schedule 8 (Guarantee)]**
 - **[Joint Schedule 9 (Minimum Standards of Reliability)]**
 - *Joint Schedule 10 (Rectification Plan)*
 - *Joint Schedule 11 (Processing Data)*
 - **[Joint Schedule 12 (Supply Chain Visibility)]**
- **Call-Off Schedules for RM6160**
 - *Call-Off Schedule 1 (Transparency Reports)*
 - *Call-Off Schedule 2 (Staff Transfer)*
 - *Call-Off Schedule 3 (Continuous Improvement)*
 - **[Call-Off Schedule 5 (Pricing Details)]**
 - **[Call-Off Schedule 6 (ICT Services)]**
 - **[Call-Off Schedule 7 (Key Supplier Staff)]**
 - **[Call-Off Schedule 8 (Business Continuity and Disaster Recovery)]**
 - **[Call-Off Schedule 9 (Security)]**
 - **[Call-Off Schedule 10 (Exit Management)]**
 - **[Call-Off Schedule 11 (Installation Works)]**
 - **[Call-Off Schedule 12 (Clustering)]**
 - **[Call-Off Schedule 13 (Implementation Plan and Testing)]**
 - **[Call-Off Schedule 14 (Service Levels)]**
 - **[Call-Off Schedule 15 (Call-Off Contract Management)]**
 - **[Call-Off Schedule 16 (Benchmarking)]**
 - **[Call-Off Schedule 17 (MOD Terms)]**
 - **[Call-Off Schedule 18 (Background Checks)]**
 - **[Call-Off Schedule 19 (Scottish Law)]**

- [Call-Off Schedule 20 (Call-Off Specification)]
 - [Call-off Schedule 21 (Northern Ireland Law)]
 - [Call-off Schedule 22 (Lease Terms)]
4. CCS Core Terms (version 3.0.6)
 5. Joint Schedule 5 (Corporate Social Responsibility) **RM6160**
 6. [Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Contracting Authority (as decided by the Contracting Authority) take precedence over the documents above.]

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

CALL-OFF SPECIAL TERMS

The following Special Terms are incorporated into this Call-Off Contract:

[Insert terms to revise or supplement Core Terms, Joint Schedules, Call Off Schedules; or none]

[Special Term 1]

[Special Term 2.]

[Special Term 3.]

[None]

CALL-OFF START DATE: [Insert Day Month Year]

CALL-OFF EXPIRY DATE: [Insert Day Month Year]

CALL-OFF INITIAL PERIOD: [Insert Years, Months]

CALL-OFF DELIVERABLES

[Contracting Authority guidance: complete option A or, if Deliverables are too complex for this form, use option B and Call-Off Schedule 20 instead. Delete the option that is not used.]

[Option A: [Name of Deliverable][Quantity][Delivery date][Details]]

[Option B: See details in Call-Off Schedule 20 (Call-Off Specification)]

MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

[Contracting Authority guidance: you can change the cap on liability in Clause 11.2 where you have made an appropriate risk assessment and sought the necessary management approvals. Unlimited liability is not permitted]

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is [Insert Estimated Charges in the first 12 months of the Contract. The Contracting Authority must always provide a figure here]

CALL-OFF CHARGES

[Contracting Authority guidance: Use option A or, if charging model is too complex to detail in this form or must be embedded, **use** option B and Call-Off Schedule 5 instead. **Delete** the option that is not used.]

[Option A: Insert the Charges for the Deliverables]

[Option B: See details in Call-Off Schedule 5 (Pricing Details)]

[Delete if not used: All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in Framework Schedule 3 (Framework Prices)]

[Delete if by direct award or if not otherwise used: The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Contracting Authority and the Supplier because of:

- [Indexation]
- [Specific Change in Law]
- [Benchmarking using Call-Off Schedule 16 (Benchmarking)]

REIMBURSABLE EXPENSES

[Insert None or insert Recoverable as stated in the Framework Contract]

PAYMENT METHOD

[Insert payment method(s) and necessary details]

CONTRACTING AUTHORITY'S INVOICE ADDRESS:

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

CONTRACTING AUTHORITY'S AUTHORISED REPRESENTATIVE

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

CONTRACTING AUTHORITY'S ENVIRONMENTAL POLICY

[Insert details [Document name] [version] [date] [available online at:]
or insert: [Appended at Call-Off Schedule X]]

CONTRACTING AUTHORITY'S SECURITY POLICY

[Insert details [Document name] [version] [date] [available online at:]
or insert: [Appended at Call-Off Schedule X]]

SUPPLIER'S AUTHORISED REPRESENTATIVE

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

SUPPLIER'S CONTRACT MANAGER

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

PROGRESS REPORT FREQUENCY

[Insert report frequency]: On the first Working Day of each calendar month]

PROGRESS MEETING FREQUENCY

[Insert meeting frequency]: Quarterly on the first Working Day of each quarter]

KEY STAFF

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

KEY SUBCONTRACTOR(S)

[Insert name (registered name if registered)]

COMMERCIALLY SENSITIVE INFORMATION

[Insert Not applicable or insert Supplier's Commercially Sensitive Information]

SERVICE CREDITS

[Insert Not applicable]

[or insert Service Credits will accrue in accordance with Call-Off Schedule 14 (Service Levels).

The Service Credit Cap is: [Insert £value].

The Service Period is [Insert duration: one Month]].

ADDITIONAL INSURANCES

[Insert Not applicable

or insert details of Additional Insurances required in accordance with Joint Schedule 3 (Insurance Requirements)]

GUARANTEE

[Insert Not applicable

or insert The Supplier must have a Call-Off Guarantor to guarantee their performance using the form in Joint Schedule 8 (Guarantee)

or insert There's a guarantee of the Supplier's performance provided for all Call-Off Contracts entered under the Framework Contract]

SOCIAL VALUE COMMITMENT

[Insert Not applicable **or insert** The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Tender)]

For and on behalf of the Supplier:		For and on behalf of the Contracting Authority:	
Signature:		Signature:	
Name:		Name:	
Role:		Role:	
Date:		Date:	

[Contracting Authority guidance: execution by seal / deed where required by the Contracting Authority].

Annex 1: Short Order Form Template

Template may be used by Contracting Authorities to place orders with Suppliers for Temporary Workers



Annex 1 Framework
Schedule 6 Short Ord

Framework Schedule 7 (Call-Off Award Procedure)

PART 1: ORDER PROCEDURE

1. How a Call-Off Contract is awarded

1.1 If a potential Contracting Authority decides to source Deliverables through this Contract then it will award its Deliverables in accordance with the procedure in this Schedule and the requirements of the Regulations.

1.2 If the potential Contracting Authority can determine that:

1.2.1 its Deliverables can be met by the Suppliers' catalogues and description of the Deliverables as set out in Framework Schedule 1 (Specification) and Framework Schedule 2 (Framework Tender); and

1.2.2 all of the terms of the proposed Call-Off Contract are laid down in this Contract and do not require amendment or any supplementary terms and conditions;

then the Contracting Authority may award a Call-Off Contract in accordance with the procedure set out in Paragraph 2 below.

1.3 If all of the terms of the proposed Call-Off Contract are not laid down in this Contract and the potential Contracting Authority:

1.3.1 requires the Supplier to develop proposals or a solution in respect of such Deliverables; and/or

1.3.2 needs to amend or refine the terms of the Framework Contract to reflect its Deliverables to the extent permitted by and in accordance with the Regulations;

then the Contracting Authority may award a Call-Off Contract in accordance with the Further Competition Procedure set out in Paragraph 3 below.

2. How a direct award works

2.1 Subject to Paragraph 1.2 above the Contracting Authority awarding a Call-Off Contract under this Contract without holding a further competition shall:

2.1.1 develop a clear Statement of Requirements;

2.1.2 apply the direct award criteria to the Suppliers' Framework Prices and description of the Deliverables as set out in Framework Schedule 1 (Specification) and Framework Schedule 2 (Framework Tender) for all Suppliers capable of meeting the Statement of Requirements in order to establish which Supplier provides the most economically advantageous solution; and

2.1.3 on the basis set out above, award the Call-Off Contract with the successful Supplier in accordance with Paragraph 6 below.

8.3.3

3. How a further competition works

What the Contracting Authority has to do

3.1 The Contracting Authority awarding a Call-Off Contract under this Contract through a Further Competition Procedure shall:

- 3.1.1 develop a Statement of Requirements setting out its requirements for the Deliverables and identify the Suppliers capable of supplying the them;
- 3.1.2 amend or refine the Deliverables to reflect its requirements by using the Order Form only to the extent permitted by and in accordance with the requirements of the Regulations;
- 3.1.3 invite tenders by conducting a Further Competition Procedure for its Deliverables in accordance with the Regulations and in particular, the Contracting Authority shall:
 - (a) invite the Suppliers identified in accordance with Paragraph 3.1.1 to submit a tender in writing for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Supplier Representative of each Supplier;
 - (b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit tenders; and
 - (c) keep each tender confidential until the time limit set out for the return of tenders has expired.
- 3.1.4 apply the further competition award criteria to the Suppliers' compliant tenders submitted through the Further Competition Procedure as the basis of its decision to award a Call-Off Contract for its Deliverables;
- 3.1.5 on the basis set out above, award its Call-Off Contract to the successful Supplier in accordance with Paragraph 6. The Call-Off Contract shall:
 - (a) state the Deliverables;
 - (b) state the tender submitted by the successful Supplier;
 - (c) state the charges payable for the Deliverables in accordance with the tender submitted by the successful Supplier; and

- (d) incorporate the terms [of the Order Form and Contract] (as may be amended or refined by the Contracting Authority in accordance with Paragraph 3.1.2. above) applicable to the Deliverables,
- 3.1.6 provide unsuccessful Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

What the Supplier has to do

3.2 The Supplier shall in writing, by the time and date by the time and date specified by the Contracting Authority following an invitation to tender pursuant to Paragraph 3.1.3 above, provide the Authority and the Contracting Authority with either:

- 3.2.1 a statement to the effect that it does not wish to tender in relation to the Deliverables; or
- 3.2.2 the full details of its tender made in respect of the relevant Statement of Requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:
 - (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
 - (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the Statement of Requirements;
 - (c) a proposal covering the Deliverables;
 - (d) CVs of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
 - (e) confirmation of discounts applicable to the Deliverables, as referenced in Framework Schedule 3 (Framework Prices) (if applicable).
- 3.2.3 The Supplier shall ensure that any prices submitted in relation to a Further Competition Procedure held pursuant to this Paragraph 3 shall be based on the Charging Structure and take into account any discount to which the Contracting Authority may be entitled as set out in Framework Schedule 3 (Framework Prices).
- 3.2.4 The Supplier agrees that:
 - (a) all tenders submitted by the Supplier in relation to a Further Competition Procedure held pursuant to this Paragraph 3 shall remain open for acceptance by the Contracting Authority for ninety (90) Working Days (or such other period

- specified in the invitation to tender issued by the Contracting Authority in accordance with the Call-Off Procedure); and
- (b) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
 - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
 - (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

4. No requirement to award

4.1 Notwithstanding the fact that the Contracting Authority has followed a procedure as set out above in Paragraph 2 or 3 (as applicable), the Supplier acknowledges and agrees that the Contracting Authority shall be entitled at all times to decline to make an award for its Deliverables and that nothing in this Contract shall oblige the Contracting Authority to award any Call-Off Contract.

5. Who is responsible for the award

5.1 The Supplier acknowledges that the Contracting Authority is independently responsible for the conduct of its award of Call-Off Contracts under this Contract and that the Authority is not responsible or accountable for and shall have no liability whatsoever, except where it is the Contracting Authority, in relation to:

- 5.1.1 the conduct of Contracting Authority in relation to this Contract; or
- 5.1.2 the performance or non-performance of any Call-Off Contracts between the Supplier and Contracting Authority entered into pursuant to this Contract.

6. Awarding and creating a Call-Off contract

6.1 Subject to Paragraphs **Error! Bookmark not defined.** 1 to 5 above and 7, a Contracting Authority may award a Call-Off Contract with the Supplier by sending (including electronically) a signed order form substantially in the form (as may be amended or refined by the Contracting Authority in accordance with Paragraph 3.1.2 above) of the Order Form Template set

out in Framework Schedule 6 (Order Form Template and Call-Off Schedules).

- 6.2 The Parties agree that any document or communication (including any document or communication in the apparent form of a Call-Off Contract) which is not as described in this Paragraph 6 shall not constitute a Call-Off Contract under this Contract.
- 6.3 On receipt of an order form as described in Paragraph 6.1 from a Contracting Authority the Supplier shall accept the Call-Off Contract by promptly signing and returning (including by electronic means) a copy of the order form to the Contracting Authority concerned.
- 6.4 On receipt of the countersigned Order Form from the Supplier, the Contracting Authority shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and the Call Off Contract shall be formed with effect from the Call Off Start Date stated in the Order Form.

7. e-auctions

9. How e-auctions work

- 7.1 The Contracting Authority shall be entitled to include a reverse auction in the Further Competition Procedure in accordance with the rules laid down by the Contracting Authority and the Regulations.
- 7.2 Where Contracting Authority wishes to undertake an electronic reverse auction, where Suppliers compete in real time by bidding as the auction unfolds ("**Electronic Reverse Auction**") then before undertaking it, the Contracting Authority will make an initial full evaluation of all tenders received in response to its Statement of Requirements. The Contracting Authority will then invite to the Electronic Reverse Auction only those tenders that are admissible in accordance with the Regulations. The invitation shall be accompanied by the outcome of the full initial evaluation of the relevant tenders.
- 7.3 The Contracting Authority will inform the Suppliers of the specification for the Electronic Reverse Auction which shall include:
- (a) the information to be provided at auction, which must be expressed in figures or percentages of the specified quantifiable features;
 - (b) the mathematical formula to be used to determine automatic ranking of bids on the basis of new prices and/or new values submitted;
 - (c) any limits on the values which may be submitted;
 - (d) a description of any information which will be made available to Suppliers in the course of the Electronic Reverse Auction, and when it will be made available to them;

Framework Schedule 7 (Call-Off Award Procedure)

Crown Copyright 2019

- (e) the conditions under which Suppliers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- (f) relevant information concerning the electronic equipment used and the arrangements and technical specification for connection;
- (g) subject to Paragraph 7.5, the date and time of the start of the Electronic Reverse Auction; and
- (h) details of when and how the Electronic Reverse Auction will close.

7.4 The Electronic Reverse Auction may not start sooner than two (2) Working Days after the date on which the specification for the Electronic Reverse Auction has been issued.

7.5 Throughout each phase of the Electronic Reverse Auction the Contracting Authority will communicate to all Suppliers sufficient information to enable them to ascertain their relative ranking.

7.6 The Supplier acknowledges and agrees that:

- (a) the Contracting Authority and its officers, servants, agents, group companies, assignees and customers (including the Authority) do not guarantee that its access to the Electronic Reverse Auction will be uninterrupted or error-free;
- (b) its access to the Electronic Reverse Auction may occasionally be restricted to allow for repairs or maintenance; and
- (c) it will comply with all such rules that may be imposed by the Contracting Authority in relation to the operation of the Electronic Reverse Auction.

7.7 The Contracting Authority will close the Electronic Reverse Auction on the basis of:

- (a) a date and time fixed in advance;
- (b) when no new prices or values meeting the minimum differences required pursuant to Paragraph 7.3 have been received within the prescribed elapsed time period; or

7.7.2 when all the phases have been completed.]

PART 2: AWARD CRITERIA

1. This Part 2 lays out award criteria for direct award (Annex A) and for further competition (Annex B) in accordance with the Call-Off Procedure.
2. A Call-Off Contract may be awarded on the basis of most economically advantageous tender ("MEAT"). This may be conducted using information available from the Award Support Tool.

Annex A: Direct award criteria

The following criteria and weightings shall apply to the evaluation for direct award of each Call-Off.

Criteria	Relative weighting percentage
[Price (life cycle costs, cost effectiveness & price; price and running costs)]	0-100%
[Technical merit; coverage, network capacity and performance as specified in relevant service levels]	0-100%
[Help desk, account management function and assurance of supply of a range of devices and good value accessories]	0-100%
[Environmental characteristics]	0-100%
[Quality (including delivery time, sales service, good value, accessories, service fitness for purpose)]	0-100%

Annex B: Further Competition Award Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the Further Competition Procedure:

Criteria	Relative weighting percentage

Framework Schedule 7 (Call-Off Award Procedure)

Crown Copyright 2019

<p>[Quality]</p> <p>[Which consists of the following criteria:</p> <ul style="list-style-type: none"> • [Added Value / Innovation] • [Social Value] • [Approach To Delivery Of The Services] • [Implementation] <p>[Use Of Supply Chain / Partners]</p>	<p>0-100%</p>
<p>[Compliance]</p>	<p>0-100%</p>
<p>Staff Management/</p>	<p>0-100%</p>
<p>[Cost effectiveness]</p>	<p>0-100%</p>
<p>[Technical merit]</p>	<p>0-100%</p>
<p>[Technical assistance]</p> <ul style="list-style-type: none"> • System integration] 	<p>0-100%</p>
<p>[Post-Award service]</p>	<p>0-100%</p>
<p>[Price]</p>	<p>0-100%</p>
<p>[Aesthetic and functional characteristics]</p>	<p>0-100%</p>
<p>[Running costs]</p>	<p>0-100%</p>
<p>[Environmental characteristics]</p>	<p>0-100%</p>
<p>[Delivery date and delivery period]</p>	<p>0-100%</p>
<p>[Period of completion]</p>	<p>0-100%</p>

Framework Schedule 8 (Self Audit Certificate)

You must ensure that this this annual certificate is completed and sent to the Authorised Representative at the end of each Contract Year.

In accordance with Clause 6 (Record keeping and reporting) of the Framework Contract Framework Ref: RM6160 entered into on [Insert Framework Start Date dd/mm/yyyy] between [Insert Supplier name] and the Authority, we confirm the following:

1. In our opinion based on the testing undertaken [Insert Supplier name] is successfully identifying, recording and reporting on Framework Contract activity.
2. We have tested a sample of 20 Orders and related invoices during our audit for the Contract Year ending [Insert dd/mm/yyyy] and confirm that they are correct and in accordance with the Framework Contract.
3. We have tested a sample of 15 Orders and related invoices:
 - for the same or similar Deliverables
 - for the UK public sector
 - not supplied under the Framework Contract
 - during our audit for the Contract Year ending [Insert dd/mm/yyyy]

We confirm that the Orders and invoices have been procured under an appropriate and legitimate procurement route and could not have been procured under the Framework Contract.

4. We attach an audit report which details:
 - the methodology used of the review
 - the sampling techniques applied
 - details of any issues identified
 - remedial action taken

Name:.....

Signed:.....

[Head of Internal Audit/ Finance Director/ External Audit firm]

Date:.....

Professional Qualification held by Signatory:.....

Framework Schedule 9 (Cyber Essentials Scheme)

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: https://www.cyberessentials.ncsc.gov.uk/
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework Award Form
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. WHAT CERTIFICATION DO YOU NEED

2.1 Where the Framework Award Form requires that the Supplier provide a Cyber Essentials Certificate the Supplier shall provide a valid Cyber Essentials Certificate to the Authority. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under any Contract until such time as the Supplier has evidenced to the Authority its compliance with this Paragraph 2.1.

- 2.2 Where the Supplier continues to process data during the Contract Period of any Call-Off Contract the Supplier shall deliver to the Authority evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 0.
- 2.3 Where the Supplier is due to process data after the Start date of the first Call-Off Contract but before the end of the Framework Period or Contract Period of the last Call-Off Contract, the Supplier shall deliver to the Authority evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the Supplier processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 0
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Authority reserves the right to terminate this Contract for material Default.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 0 of this Schedule.
- 2.6 This Schedule shall survive termination or expiry of this Contract and each and any Call-Off Contract.

Framework Schedule 10 (Security Assurance Requirements)

1. PURPOSE

- 1.1 The purpose of this document is to outline the security assurance principles that shall be observed by the Supplier and its Supply Chain in delivery of this Framework Contract, and all associated Call Off Contract.
- 1.2 This Schedule 10 also outlines the accreditation and assurance activities required by the Supplier to assure appropriate security measures are in place during the delivery of the Services.
- 1.3 The principles outlined in this document are to be observed as a minimum, and the Authority and the Contracting Authority(s) reserve the right to amend these security assurance requirements at the point of call off or at any time throughout the Contract Period.

2. COMPLIANCE WITH SECURITY OUTCOMES

- 1.4 The Supplier shall ensure that the security outcomes detailed in this section 2, Schedule 10 Security Assurance Requirements are carried out in accordance with industry best practise.
- 1.5 Through delivery of the Services, the Supplier shall ensure that:
 - 1.5.1 Contracting Authority and Supplier personnel are clear on their roles and responsibilities in managing Data, and that the associated business impact of any compromise is understood;
 - 1.5.2 Supplier staff shall be subject to adequate personnel security screening and security education for their role;
 - 1.5.3 Only Authorised Users with a valid business requirement are able to access Data;
 - 1.5.4 Contracting Authority(s) are able to monitor who is given access to their Data;
 - 1.5.5 Data is adequately protected against tampering and unauthorised access, including when such Data is provided or migrated.
 - 1.5.6 There is effective incident management for detecting incidents and managing the subsequent action;
 - 1.5.7 There is the ability to operate normally in the event of failures, incidents or attacks;
 - 1.5.8 Data is backed up and that all copies are appropriately protected.
- 1.6 The Supplier shall ensure that the processes and procedures that are employed in delivery of the Services under this Framework Contract, and

Framework Schedule 10 (Security Assurance Requirements)

Crown Copyright 2019

any associated Call Off Contract conform to industry best practise, as a minimum;

1.6.1 GCSC Cloud Security Principles

<https://www.ncsc.gov.uk/guidance/cloud-security-principle-1-data-transit-protection>

1.6.2 GCSC Protecting Bulk Personal Data

<https://www.ncsc.gov.uk/guidance/protecting-bulk-personal-data-introduction>

1.6.3 Compliance to requirements set out in Cabinet Office Security Policy Framework

<https://www.gov.uk/government/publications/security-policy-framework>

1.7 The Supplier shall further ensure that it obtains accreditation to following standards, and maintains such accreditation throughout the life of the framework agreement:

1.7.1 Cyber Essentials Certificate

<https://www.cyberessentials.ncsc.gov.uk/>

1.8 The Supplier shall ensure that it remains familiar with latest best practise guidance with regards to Security Assurance.

Joint Schedule 1 (Definitions)

- 2.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 2.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 2.3 In each Contract, unless the context otherwise requires:
 - 2.3.1 the singular includes the plural and vice versa;
 - 2.3.2 reference to a gender includes the other gender and the neuter;
 - 2.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 2.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 2.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 2.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 2.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
 - 2.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 2.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;

- 2.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
 - 2.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract; and
 - 2.3.12 where the Contracting Authority is a Crown Body it shall be treated as contracting with the Crown as a whole.
- 2.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Additional Insurances"	insurance requirements relating to a Call-Off Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
"Admin Fee"	means the costs incurred by The Authority in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the Authority on: http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees ;
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;
"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Agenda for Change"	means the national agreements on pay and conditions of service for NHS staff other than very senior managers and medical staff.
"Agenda for Change pay band"	means the pay bands 1 to 9 stated in the pay structure of the national agreements on pay and conditions of service for NHS staff other than very senior managers and medical staff.
"Annex"	extra information which supports a Schedule;
"Appraiser"	normally means a person with knowledge of the context in which the Temporary Worker works;
"Approval"	the prior written consent of the Contracting Authority and "Approve" and "Approved" shall be construed accordingly;
"Assignment"	means the period during which the Temporary Worker is supplied by the Supplier to the Contracting Authority to provide non clinical services to the Contracting Authority and "Assign" shall be construed accordingly;

<p>"Assignment Checklist"</p>	<p>means the written confirmation of the assignment details with the Contracting Authority prior to the commencement of the Assignment;</p>
<p>"Audit"</p>	<p>the Relevant Authority's right to:</p> <ul style="list-style-type: none"> a) verify the accuracy of the Charges and any other amounts payable by a Contracting Authority under a Call-Off Contract (including proposed or actual variations to them in accordance with the Contract); b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; c) verify the Open Book Data; d) verify the Supplier's and each Subcontractor's compliance with the applicable Law; e) verify the Supplier's and each Subcontractor's compliance with NHS Employer's CHECK Standards, or any successor or replacement standard, as amended or updated from time to time https://www.nhsemployers.org/your-workforce/recruit/employment-checks f) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations; g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; h) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; i) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract; j) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts; k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources; or

	l) verify the accuracy and completeness of any Management Information delivered or required by the Framework Contract;
"Auditor"	a) the Contracting Authority's internal and external auditors; b) the Contracting Authority's statutory or regulatory auditors; c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; d) HM Treasury or the Cabinet Office; e) the Relevant Authority's appointed Health Assurance Inspector; f) any party formally appointed by the Contracting Authority to carry out audit or similar review functions; and g) successors or assigns of any of the above;
"Authorised User"	means the person at the Contracting Authority's organisation who has authorisation to use the system, request new positions, sign off time sheets etc.; often referred to as a hiring manager within the NHS;
"Authority"	CCS, NHS Procurement in Partnership and each Contracting Authority;
"Authority Authorised Representative"	the representative appointed by The Authority from time to time in relation to the Framework Contract initially identified in the Framework Award Form;
"Authority Cause"	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
"Award Support Tool"	means a tool provided by the Authority to Contracting Authorities that will enable a Contracting Authority to directly award a Call-off Agreement based on information developed from data provided by the Supplier as part of the Tender response that includes the geographical location of Supplier premises, Supplier Fees and Supplier discounts;
"AWR"	means the Agency Worker Regulations 2010 (and any subsequent amendment or re-enactment thereof);
"BACS"	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Call-Off Contract"	the contract between the Contracting Authority and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form;

"Call-Off Contract Period"	the Contract Period in respect of the Call-Off Contract;
"Call-Off Expiry Date"	the date of the end of a Call-Off Contract as stated in the Order Form;
"Call-Off Incorporated Terms"	the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form;
"Call-Off Initial Period"	the Initial Period of a Call-Off Contract specified in the Order Form;
"Call-Off Optional Extension Period"	such period or periods beyond which the Call-Off Initial Period may be extended up to a maximum of the number of years in total specified in the Order Form;
"Call-Off Procedure"	the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Procedure and Award Criteria);
"Call-Off Special Terms"	any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract;
"Call-Off Start Date"	the date of start of a Call-Off Contract as stated in the Order Form;
"Call-Off Tender"	the tender submitted by the Supplier in response to the Contracting Authority's Statement of Requirements following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off Tender);
"Candidate"	means the person, which for the purposes of the Framework Contract, means: either a Temporary Work Seeker who is introduced to the Contracting Authority by the Supplier to potentially provide services to the Contracting Authority on an Assignment (in the case of Temporary Work Seeker provision); or a Work Seeker who is introduced to the Contracting Authority by the Supplier to potentially provide services to the Contracting Authority during an Engagement (in the case of Work Seeker provision); or both where this is not specified.
"CCS"	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;

<p>"Central Government Body"</p>	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>a) Government Department;</p> <p>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>c) Non-Ministerial Department; or</p> <p>d) Executive Agency;</p>
<p>"Change in Law"</p>	<p>any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;</p>
<p>"Change of Control"</p>	<p>a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;</p>
<p>"Charges"</p>	<p>the prices (exclusive of any applicable VAT), payable to the Supplier by the Contracting Authority under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Call-Off Contract less any Deductions;</p>
<p>"Charging Structure"</p>	<p>means the structure to be used in the establishment of the charging model which is applicable to each Call-Off Agreement, which structure is set out in Framework Schedule 3 (Framework Prices);</p>
<p>"Claim"</p>	<p>any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;</p>
<p>"Commercially Sensitive Information"</p>	<p>the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;</p>
<p>"Comparable Supply"</p>	<p>the supply of Deliverables to another Contracting Authority of the Supplier that are the same or similar to the Deliverables;</p>
<p>"Compliance Officer"</p>	<p>the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;</p>
<p>"Confidential Information"</p>	<p>means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of The Authority, the Contracting Authority or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;</p>

"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to The Authority or any Contracting Authority under a Contract, in the reasonable opinion of the Contracting Authority or The Authority;
"Contract"	either the Framework Contract or the Call-Off Contract, as the context requires;
"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities;
"Contract Year"	means a period of twelve(12) consecutive Months commencing on the Framework Commencement Date or each anniversary thereof;
"Contract Period"	the term of either a Framework Contract or Call-Off Contract from the earlier of the: a) applicable Start Date; or b) the Effective Date i) until the applicable End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Contracting Authority"	the relevant public sector purchaser identified as such in the Order Form;
"Contracting Authority Assets"	the Contracting Authority's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Contracting Authority and which is or may be used in connection with the provision of the Deliverables which remain the property of the Contracting Authority throughout the term of the Contract;
"Contracting Authority Authorised Representative"	the representative appointed by the Contracting Authority from time to time in relation to the Call-Off Contract initially identified in the Order Form;
"Contracting Authority Premises"	premises owned, controlled or occupied by the Contracting Authority which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly;
"Controller"	has the meaning given to it in the GDPR;
"Core Terms"	The Authorities standard terms and conditions for common goods and services which govern how Supplier must interact with The Authority and

	Contracting Authorities under Framework Contracts and Call-Off Contracts;
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Man Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Contracting Authority; b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Contracting Authority or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and d) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables; <ul style="list-style-type: none"> but excluding: <ul style="list-style-type: none"> a) Overhead; b) financing or similar costs;

	<p>c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>d) taxation;</p> <p>e) fines and penalties;</p> <p>f) amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and</p> <p>g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"Data Protection Legislation"	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Contracting Authority is paid or is payable to the Contracting Authority under a Call-Off Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with

	or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
"Default Management Charge"	has the meaning given to it in Paragraph 8.1.1 of Framework Schedule 5 (Management Charges and Information);
"Delay Payments"	the amounts (if any) payable by the Supplier to the Contracting Authority in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Contracting Authority by the either (a) confirmation in writing to the Supplier; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Contracting Authority of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Order Form (for the purposes of this definition the "Disaster Period");
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
"Disclosure and Barring Service" ("DBS")	means Disclosure and Barring Service (The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the DBS. CRB checks are now called DBS checks).
"Dispute"	any claim, dispute or difference arises out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
"Documentation"	a) descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is

	<p>required to be supplied by the Supplier to the Contracting Authority under a Contract as:</p> <p>b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Contracting Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>c) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>d) has been or shall be generated for the purpose of providing the Deliverables;</p>
"DOTAS"	<p>e) the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;</p>
"DPA 2018"	<p>f) the Data Protection Act 2018;</p>
"Due Diligence Information"	<p>g) any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;</p>
"E-Payment Provider"	<p>h) means the provider of the embedded commercial payment card(s) technology and services associated with the provision of the E-Payment Mechanism;</p>
"E-Payment Solutions"	<p>i) means the mechanism supporting prompt payment under the Call Off Contract and involving provision of embedded commercial payment card(s) technology and associated services to the Service Provider and the Customer by an E-Payment Provider</p>
"Effective Date"	<p>the date on which the final Party has signed the Contract;</p>
"EIR"	<p>the Environmental Information Regulations 2004;</p>
"Employment Agency"	<p>means, in accordance with the Conduct Regulations, an organisation that Introduces Work Seekers for direct Engagement, on a fixed term basis, by Contracting Authorities. This is usually known in the industry as 'permanent recruitment' or employment even though the Engagement may only be for a fixed period;</p>
"Employment Business"	<p>shall have the same meaning as set out in the Conduct Regulations. An Employment Business Engages Temporary Workers (whether under Contracts for services or Contracts of service) and supplies those Temporary Workers to the Contracting Authority for hire on Assignments where they will be under the Contracting Authority's direct supervision or control;</p>

"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
"End Date"	<p>a) the earlier of:</p> <p>b) the Expiry Date (as extended by any Extension Period exercised by the Authority under Clause 10.2); or</p> <p>c) if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Contracting Authority;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Contracting Authority in the first Contract Year specified in the Order Form;
"Estimated Yearly Charges"	<p>means for the purposes of calculating each Party's annual liability under clause 11.2 :</p> <p>i) in the first Contract Year, the Estimated Year 1 Charges; or</p> <p>ii) in the any subsequent Contract Years, the Charges paid or payable in the previous Call-off Contract Year; or</p> <p>iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period;</p>
"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"Expiry Date"	a) the Framework Expiry Date or the Call-Off Expiry Date (as the context dictates);
"Extended Hire Period"	means the period for which a Temporary Work-Seeker continues to be supplied to the Contracting Authority by the Supplier, following notice to the Supplier by the Contracting Authority that the Temporary Work-

	Seeker will be transferring on a Temp-to-Perm, Temp-to-Temp or Temp-to-Third Party basis
"Extension Period"	the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, occurrence, circumstance, matter or cause affecting the performance by either the Relevant Authority or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract; b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; c) acts of a Crown Body, local government or regulatory bodies; d) fire, flood or any disaster; or e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Framework Award Form"	the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Supplier and The Authority;
"Framework Contract"	the Framework Contract established between The Authority and the Supplier in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Contracting Authorities by the Supplier pursuant to the OJEU Notice;
"Framework Contract Period"	the period from the Framework Start Date until the End Date or earlier termination of the Framework Contract;

"Framework Expiry Date"	the date of the end of the Framework Contract as stated in the Framework Award Form;
"Framework Incorporated Terms"	the contractual terms applicable to the Framework Contract specified in the Framework Award Form;
"Framework Initial Period"	the initial term of the Framework Contract as specified in the Framework Award Form;
"Framework Optional Extension Period"	such period or periods beyond which the Framework Initial Period may be extended up to a maximum of the number of years in total specified in the Framework Award Form;
"Framework Price(s)"	the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices);
"Framework Schedules"	means the schedules to this Framework Contract;
"Framework Special Terms"	any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract;
"Framework Start Date"	the date of start of the Framework Contract as stated in the Framework Award Form;
"Framework Tender Response"	the tender submitted by the Supplier to The Authority and annexed to or referred to in Framework Schedule 2 (Framework Tender Response);
"Fulfilment of a request"	the Introduction of a suitable Temporary Worker, who has been Engaged by the Hiring Manager
"Further Competition Procedure"	the further competition procedure described in Framework Schedule 7 (Call-Off Procedure and Award Criteria);
"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679);
"General Anti-Abuse Rule"	a) the legislation in Part 5 of the Finance Act 2013 and; and b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
"General Change in Law"	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Goods"	goods made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form ;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a

	skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	<p>a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which:</p> <ul style="list-style-type: none"> i) are supplied to the Supplier by or on behalf of the Authority; or ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract; or <p>b) any Personal Data for which the Authority is the Data Controller;</p>
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"Health Assurance Inspection Report"	means a report issued by the Relevant Authority following a Health Assurance Inspection;
"Health Assurance Inspection"	means a process conducted by the Relevant Authority, either at the Supplier's premises or remotely, to assess compliance with paragraph 5 of Framework Schedule 1 – Specification.
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Contracting Authority's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:</p> <ul style="list-style-type: none"> a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; b) details of the cost of implementing the proposed Variation;

	<p>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</p> <p>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</p> <p>e) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;</p>
"Implementation Plan"	the plan for provision of the Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Contracting Authority;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Control"	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly;
"Indexation"	the adjustment of an amount or sum in accordance with Framework Schedule 3 (Framework Prices) and the relevant Order Form;
"Induction Pack"	means a welcome pack designed to provide information to employers and employees on basic induction material such as Health and Safety, HR policies and procedures and organisational facilities
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of a Contract specified in the Framework Award Form or the Order Form, as the context requires;
"Insolvency Event"	<p>a) in respect of a person:</p> <p>b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</p> <p>c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</p> <p>d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for</p>

	<p>the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>f) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</p> <p>j) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</p>
<p>"Installation Works"</p>	<p>all works which the Supplier is to carry out at the beginning of the Call-Off Contract Period to install the Goods in accordance with the Call-Off Contract;</p>
<p>"Intellectual Property Rights" or "IPR"</p>	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<p>"Introduction "</p>	<p>means:</p> <p>a) the passing to the Contracting Authority of a curriculum vitae or information which identifies the Candidate; or</p> <p>b) the Contracting Authority's interview of the Candidate (in person or by telephone or by any other means), following the Contracting Authority's instruction to the Supplier to supply a Temporary Work Seeker or Work Seeker; or</p> <p>c) the supply provision of a Candidate and in any case, which leads to an Engagement of the Candidate and "Introduces" and "Introduced" shall be construed accordingly;</p>

"Invoicing Address"	the address to which the Supplier shall Invoice the Contracting Authority as specified in the Order Form;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controllers"	where two or more Controllers jointly determine the purposes and means of processing;
"Key Personnel"	the individuals (if any) identified as such in the Order Form;
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	any Subcontractor: a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of The Authority or the Contracting Authority performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Call-Off Contract, d) and the Supplier shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in Order Form;
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment,

Joint Schedule 1 (Definitions)

Crown Copyright 2019

	interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Lots"	the number of lots specified in Framework Schedule 1 (Specification), if applicable;
"Man Day"	7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Man Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Management Charge"	the sum specified in the Framework Award Form payable by the Supplier to The Authority in accordance with Framework Schedule 5 (Management Charges and Information);
"Management Information" or "MI"	the management information specified in Framework Schedule 5 (Management Charges and Information);
"Marketing Contact"	shall be the person identified in the Framework Award Form;
"Master Vendor "	means a Supplier who will supply Temporary Workers from its own pool of labour, and also manage a supply chain or tier of Employment Businesses or Employment Agencies, as applicable, to provide Temporary Workers to fulfil bookings that it cannot fill itself. For the Contracting Authority receiving the Managed Services, the provision is seamless and the Contracting Authority contracts only with the Master Vendor and not with the third-party Employment Businesses or Agencies directly;
"MI Default"	means when two (2) MI Reports are not provided in any rolling six (6) month period
"MI Failure"	means when an MI report: <ul style="list-style-type: none"> a) contains any material errors or material omissions or a missing mandatory field; or b) is submitted using an incorrect MI reporting Template; or c) is not submitted by the reporting date (including where a declaration of no business should have been filed);
"MI Report"	means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information);
"MI Reporting Template"	means the form of report set out in the Annex to Framework Schedule 5 (Management Charges and Information) setting out the information the Supplier is required to supply to the Authority;

"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
"Neutral Vendor"	means a Supplier who will not personally supply any Temporary Workers from its own pool of labour, but instead manages a supply chain or tier of Employment Businesses or Employment Agencies, as applicable, to provide Temporary Workers to fulfil bookings. For the Contracting Authority receiving the Managed Services, the provision is seamless and the Contracting Authority contracts only with the Neutral Vendor and not with the third-party Employment Businesses or Agencies directly;
"New IPR"	<p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>b) IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
"NHS"	means National Health Service
"NHS Employers"	means the organisation set up in 2004 to be 'the voice of employers in the NHS' (see http://www.nhsemployers.org);
"Occasion of Tax Non-Compliance"	<p>where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or <p>b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a</p>

	criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;
"Open Book Data "	<p>complete and accurate financial and non-financial information which is sufficient to enable the Contracting Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Call-Off Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> a) the Supplier’s Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables; b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables; ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade; iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and iv) Reimbursable Expenses, if allowed under the Order Form; c) Overheads; d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables; e) the Supplier Profit achieved over the Framework Contract Period and on an annual basis; f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier; g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and h) the actual Costs profile for each Service Period;
"Order"	means an order for the provision of the Deliverables placed by a Contracting Authority with the Supplier under a Contract;
"Order Form"	a completed Order Form Template (or equivalent information issued by the Contracting Authority) used to create a Call-Off Contract;
"Order Form Template"	the template in Framework Schedule 6 (Order Form Template and Call-Off Schedules);

"Overhead"	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
"Parliament"	takes its natural meaning as interpreted by Law;
"Party"	in the context of the Framework Contract, The Authority or the Supplier, and in the in the context of a Call-Off Contract the Contracting Authority or the Supplier. "Parties" shall mean both of them where the context permits;
"Performance Indicators" or "PIs"	the performance measurements and targets in respect of the Supplier's performance of the Framework Contract set out in Framework Schedule 4 (Framework Management);
"Personal Data"	has the meaning given to it in the GDPR;
"Personal Data Breach"	has the meaning given to it in the GDPR;
"Personnel"	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
"Processing"	has the meaning given to it in the GDPR;
"Processor"	has the meaning given to it in the GDPR;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;
"Progress Meeting"	a meeting between the Contracting Authority Authorised Representative and the Supplier Authorised Representative;
"Progress Meeting Frequency"	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
"Progress Report"	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
"Progress Report Frequency"	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;

<p>“Prohibited Acts”</p>	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Contracting Authority or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or ii) under legislation or common law concerning fraudulent acts; or iii) defrauding, attempting to defraud or conspiring to defraud a Contracting Authority or other public body; or <p>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<p>“Protective Measures”</p>	<p>appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Framework Schedule 9 (Cyber Essentials), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract.</p>
<p>“Recall”</p>	<p>a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;</p>
<p>"Recipient Party"</p>	<p>the Party which receives or obtains directly or indirectly Confidential Information;</p>
<p>"Rectification Plan"</p>	<p>the Supplier’s plan (or revised plan) to rectify it’s breach using the template in Joint Schedule 10 (Rectification Plan Template)which shall include:</p> <ul style="list-style-type: none"> a) full details of the Default that has occurred, including a root cause analysis;

	<p>b) the actual or anticipated effect of the Default; and</p> <p>c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);</p>
"Rectification Plan Process"	the process set out in Clause 10.4.3 to 10.4.5 (Rectification Plan Process);
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Regulated Activities"	has the same meaning as defined in the Safeguarding Vulnerable Groups Act 2006 (and any subsequent amendment or re-enactment thereof);
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Contracting Authority's expenses policy current from time to time, but not including:</p> <p>a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Contracting Authority otherwise agrees in advance in writing; and</p> <p>b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p>
"Relevant Authority"	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
"Relevant Authority's Confidential Information"	<p>a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);</p> <p>b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and</p> <p>information derived from any of the above;</p>
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;

"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Reminder Notice"	a notice sent in accordance with Clause 10.6 given by the Supplier to the Contracting Authority providing notification that payment has not been received on time;
"Replacement Candidate"	means in the case of a Work Seeker provision, any Candidate Introduced by the Supplier to the Contracting Authority to fill the Engagement following the Introduction of another Candidate whose Engagement either did not commence or was terminated during the first twelve (12) Weeks of the Engagement
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Contracting Authority receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Contracting Authority internally and/or by any third party;
"Replacement Subcontractor"	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Contracting Authority from time to time or where the Contracting Authority is providing Replacement Deliverables for its own account, shall also include the Contracting Authority;
"Request For Information"	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Insurances"	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in of Part B of Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off Schedule 13 is not used in this Contract) granted by the Contracting Authority when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;
"Schedules"	any attachment to a Framework Contract or Call-Off Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Call-Off Schedule 9 (Security) (if applicable);
"Security Policy"	the Contracting Authority's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;

"Self Audit Certificate"	means the certificate in the form as set out in Framework Schedule 8 (Self Audit Certificate);
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Levels"	any service levels applicable to the provision of the Deliverables under the Call Off Contract (which, where Call Off Schedule 14 (Service Credits) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Services"	services made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form;
"Service Transfer"	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
"Service Transfer Date"	the date of a Service Transfer;
"Sites"	any premises (including the Contracting Authority Premises, the Supplier's premises or third party premises) from, to or at which: a) the Deliverables are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Special Terms"	any additional Clauses set out in the Framework Award Form or Order Form which shall form part of the respective Contract;
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Contracting Authority and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
"Specification"	the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form;
"Standards"	any: a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same

	<p>type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</p> <p>b) standards detailed in the specification in Schedule 1 (Specification);</p> <p>c) standards detailed by the Contracting Authority in the Order Form or agreed between the Parties from time to time;</p> <p>d) relevant Government codes of practice and guidance applicable from time to time;</p>
"Start Date"	in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form;
"Statement of Requirements"	a statement issued by the Contracting Authority detailing its requirements in respect of Deliverables issued in accordance with the Call-Off Procedure;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Sub-Contract"	<p>any contract or agreement (or proposed contract or agreement), other than a Call-Off Contract or the Framework Contract, pursuant to which a third party:</p> <p>a) provides the Deliverables (or any part of them);</p> <p>b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;
"Supplier"	the person, firm or company identified in the Framework Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Contracting Authority Assets;
"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Framework Award Form, or later defined in a Call-Off Contract;
"Supplier's Confidential Information"	<p>a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</p> <p>b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be</p>

	<p>considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract;</p> <p>c) Information derived from any of (a) and (b) above;</p>
"Supplier's Contract Manager"	<p>the person identified in the Order Form appointed by the Supplier to oversee the operation of the Call-Off Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Contracting Authority prior to the appointment;</p>
"Supplier Equipment"	<p>the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Contracting Authority) in the performance of its obligations under this Call-Off Contract;</p>
"Supplier Fee"	<p>means the fee charged by the supplier to cover all costs associated with the provision of the services through this Framework Contract whilst allowing a reasonable profit margin. For example, the costs associated with administration, recruitment, completion of all pre-placement NHS employment check standards, ongoing management of the Temporary Worker, payment of the Management Charge to the Authority and other overheads including staffing costs;</p>
"Supplier Non-Performance"	<p>where the Supplier has failed to:</p> <p>a) Achieve a Milestone by its Milestone Date;</p> <p>b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</p> <p>c) comply with an obligation under a Contract;</p>
"Supplier Profit"	<p>in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of a Call-Off Contract for the relevant period;</p>
"Supplier Profit Margin"	<p>in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;</p>
"Supplier Staff"	<p>all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;</p>
"Supply Chain"	<p>means a system of organizations, people, activities, information, and resources involved in moving a product or service from supplier to Contracting Authority;</p>

"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 12 Supply Chain Visibility;
"Supporting Documentation"	sufficient information in writing to enable the Contracting Authority to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Contracting Authority under the Call-Off Contract detailed in the information are properly payable;
"Temporary Worker"	a worker who is engaged by the Contracting Authority(s) on either a Temporary Assignment or Fixed Term Assignment.
"Temporary Work-Seeker"	means: a) the person supplied to a Contracting Authority under this Framework Contract on a temporary basis by a Supplier acting as an Employment Business; and/or b) Any worker supplied to a Contracting Authority under this Framework Contract on a temporary basis, by a Supplier acting as an Employment Business, being a person who carries on business of their own account, through a limited company or otherwise and who works under supervision and direction of whoever has hired his services;
"Temp-to-Third Party"	means where a Contracting Authority introduces the Temporary Worker to another person, organisation or Bank who employs the Temporary Worker directly. This may be an individual employer, a subsidiary or Parent company or any other third party;
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in a Call-Off Contract;
"Test Plan"	a plan: a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Transfer fee"	means, in the case of Temporary Worker provision, the fee payable by the Contracting Authority in the circumstances set out at paragraph 12 of Framework Schedule 1 – Specification.

"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
"Transparency Information"	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and (ii) Commercially Sensitive Information;
"Transparency Reports"	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Contracting Authority in accordance with the reporting requirements in Call-Off Schedule 1 (Transparency Reports);
"US-EU Privacy Shield Register"	a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: https://www.privacyshield.gov/list ;
"Variation"	has the meaning given to it in Clause 24 (Changing the contract);
"Variation Form"	the form set out in Joint Schedule 2 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 24 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Worker"	any one of the Supplier Staff which the Contracting Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Work Health Assessment"	means the process of compliance with the minimum requirements of NHS Employers Work health assessment standard which may be found here:

Joint Schedule 1 (Definitions)

Crown Copyright 2019

"Work-Seeker"	means a worker supplied on a fixed term basis by the Supplier acting as an Employment Agency and who will be employed directly by a Contracting Authority;
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form.
"WTR"	means Working Time Regulations 1998 (and any subsequent amendment or re-enactment thereof);
"Year"	means a calendar year (365.25 days) and "Years" shall be construed accordingly

Joint Schedule 2 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details		
This variation is between:	[delete] as applicable: the Authority / Contracting Authority] ("the Authority" "Contracting Authority") And [insert] name of Supplier] ("the Supplier")	
Contract name:	[insert] name of contract to be changed] ("the Contract")	
Contract reference number:	[insert] contract reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete] as applicable: the Authority/Contracting Authority/Supplier]	
Variation number:	[insert] variation number]	
Date variation is raised:	[insert] date]	
Proposed variation		
Reason for the variation:	[insert] reason]	
An Impact Assessment shall be provided within:	[insert] number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> [the Authority/Contracting Authority to insert] original Clauses or Paragraphs to be varied and the changed clause] 	
Financial variation:	Original Contract Value:	£ [insert] amount]
	Additional cost due to variation:	£ [insert] amount]
	New Contract value:	£ [insert] amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: the Authority / Contracting Authority]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the **[delete]** as applicable: the Authority / Contracting Authority]

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

Joint Schedule 3 (Insurance Requirements)

3. THE INSURANCE YOU NEED TO HAVE

- 3.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than:
- 3.1.1 the Framework Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
 - 3.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.
- 3.2 The Insurances shall be:
- 3.2.1 maintained in accordance with Good Industry Practice;
 - 3.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
 - 3.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
 - 3.2.4 maintained for at least six (6) years after the End Date.
- 3.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

4. HOW TO MANAGE THE INSURANCE

- 4.1 Without limiting the other provisions of this Contract, the Supplier shall:
- 4.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 4.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - 4.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other

evidence of placing cover representing any of the Insurances to which it is a party.

5. WHAT HAPPENS IF YOU AREN'T INSURED

- 5.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 5.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

6. EVIDENCE OF INSURANCE YOU MUST PROVIDE

- 6.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

7. MAKING SURE YOU ARE INSURED TO THE REQUIRED AMOUNT

- 7.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

8. CANCELLED INSURANCE

- 8.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 8.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

9. INSURANCE CLAIMS

- 9.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to

Joint Schedule 3 (Insurance Requirements)

Crown Copyright 2019

claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

- 9.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 7.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 9.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 9.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX: REQUIRED INSURANCES

10. The Supplier shall hold the following [standard] insurance cover from the Framework Start Date in accordance with this Schedule:

10.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] five million pounds (£5,000,000);

10.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than ten million pounds (£10,000,000); and

10.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000).

Joint Schedule 4 (Commercially Sensitive Information)

11. WHAT IS THE COMMERCIALLY SENSITIVE INFORMATION?

- 11.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 11.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 11.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
	[insert date]	[insert details]	[insert duration]

Joint Schedule 5 (Corporate Social Responsibility)

1. What we expect from our Suppliers

- 1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)
- 1.2 The Authority expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, the Authority expects its suppliers and subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Contracting Authority may have additional requirements in relation to corporate social responsibility. The Contracting Authority expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Contracting Authority may notify to the Supplier from time to time.

2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support the Authority and the Contracting Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
 - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
 - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3. Modern Slavery, Child Labour and Inhumane Treatment

"**Modern Slavery Helpline**" means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Supplier:
 - 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
 - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;

Joint Schedule 5 (Corporate Social Responsibility)

Crown Copyright 2019

- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to the Authority, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Authority, the Contracting Authority and Modern Slavery Helpline.

4. Income Security

4.1 The Supplier shall:

- 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
- 4.1.3 All workers shall be provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;

Joint Schedule 5 (Corporate Social Responsibility)

Crown Copyright 2019

- 4.1.4 not make deductions from wages:
 - (a) as a disciplinary measure
 - (b) except where permitted by law; or
 - (c) without expressed permission of the worker concerned;
- 4.1.5 record all disciplinary measures taken against Supplier Staff; and
- 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime used responsibly, taking into account:
 - (a) the extent;
 - (b) frequency; and
 - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

- 5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
- 5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
 - 5.3.1 this is allowed by national law;
 - 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
appropriate safeguards are taken to protect the workers' health and safety; and
 - 5.3.3 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability

- 6.1 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

7. PROTECTION of Temporary Workers

- 7.1 The Supplier shall ensure that it protects the Temporary Worker from any suspected fraud, malpractice or breach of legislation they may encounter, and raise awareness of any such activities with an appropriate organisation such as SaferJobs.

- 7.2 SaferJobs also helps raise awareness and combats criminal activities facing Suppliers within the recruitment industry.

- 7.3 Further information about SaferJobs can be found at:

<https://www.safer-jobs.com/>

8. AGENCY WORKER REGULATIONS 2010 (“AWR”)

- 8.1 The AWR gives Temporary Workers the entitlement to the same or no less favourable treatment for basic employment and working conditions as a permanent employee of the Contracting Authority, if they complete a qualifying period of 12 weeks in a particular job.

- 8.2 The Supplier shall ensure that the AWR are applied to the Temporary Worker's assignment with the Contracting Authority where appropriate. Guidance is available on the Department for Business innovation & Skills website:

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/a/11-949-agency-workers-regulations-guidance.pdf>

9. IR35 LEGISLATION

- 9.1 The aim of the IR35 legislation is to eliminate the avoidance of tax and National Insurance Contributions (NICs) through the use of intermediaries such as personal Service companies, in circumstances where an individual worker would otherwise:

- 9.2 For tax purposes, be regarded as an employee of the client; and

- 9.3 For NICs purposes, be regarded as employed in employed earner's employment by the client

- 9.4 The Supplier shall ensure that Temporary Workers are aware of their legal obligation to comply with the requirements of IR35. General guidance to IR35 legislation may be found on the following HMRC website:

http://www.hmrc.gov.uk/leaflets/guide_limitcomp.htm

Joint Schedule 6 (Key Subcontractors)

12. Restrictions on certain subcontractors

- 12.1 The Supplier is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form.
- 12.2 The Supplier is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form.
- 12.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Authority and the Contracting Authority, and the Supplier shall, at the time of requesting such consent, provide the Authority and the Contracting Authority with the information detailed in Paragraph 12.4. The decision of the Authority and the Contracting Authority to consent or not will not be unreasonably withheld or delayed. Where the Authority consents to the appointment of a New Key Subcontractor then they will be added to section 18 of the Framework Award Form. Where the Contracting Authority consents to the appointment of a New Key Subcontractor then they will be added to Key Subcontractor section of the Order Form. The Authority and the Contracting Authority may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
- 12.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 12.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 12.3.3 the proposed Key Subcontractor employs unfit persons.
- 12.4 The Supplier shall provide the Authority and the Contracting Authority with the following information in respect of the proposed Key Subcontractor:
- 12.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 12.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 12.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority and the Contracting Authority that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 12.4.4 for the Authority, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;

Joint Schedule 6 (Key Subcontractors)

Crown Copyright 2019

- 12.4.5 for the Contracting Authority, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call Off Contract Period; and
 - 12.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.
- 12.5 If requested by the Authority and/or the Contracting Authority, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 12.4, the Supplier shall also provide:
- 12.5.1 a copy of the proposed Key Sub-Contract; and
 - 12.5.2 any further information reasonably requested by the Authority and/or the Contracting Authority.
- 12.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
- 12.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
 - 12.6.2 a right under CRTPA for the Authority and the Contracting Authority to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Authority and the Contracting Authority respectively;
 - 12.6.3 a provision enabling the Authority and the Contracting Authority to enforce the Key Sub-Contract as if it were the Supplier;
 - 12.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Authority and/or the Contracting Authority;
 - 12.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Framework Contract in respect of:
 - (a) the data protection requirements set out in Clause 14 (Data protection);
 - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
 - (c) the obligation not to embarrass the Authority or the Contracting Authority or otherwise bring the Authority or the Contracting Authority into disrepute;
 - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
 - 12.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Authority and the Contracting Authority under

Joint Schedule 6 (Key Subcontractors)

Crown Copyright 2019

Clauses 10.4 (When the Authority or the Contracting Authority can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and

- 12.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Authority and the Contracting Authority.

Joint Schedule 7 (Financial Difficulties)

13. DEFINITIONS

13.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Credit Rating Threshold"	the minimum credit rating level for the Monitored Company as set out in Annex 2 and
"Financial Distress Event"	the occurrence or one or more of the following events: <ul style="list-style-type: none">a) the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;b) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party;d) Monitored Company committing a material breach of covenant to its lenders;e) a Key Subcontractor (where applicable) notifying the Authority that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; orf) any of the following:<ul style="list-style-type: none">i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;ii) non-payment by the Monitored Company of any financial indebtedness;iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or

- iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Deliverables in accordance with any Call-Off Contract;

"Financial Distress Service Continuity Plan"	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with [each Call-Off] Contract in the event that a Financial Distress Event occurs;
"Monitored Company"	Supplier [the Framework Guarantor/ [and Call-Off Guarantor] or any Key Subcontractor]
"Rating Agencies"	the rating agencies listed in Annex 1.

14. WHEN THIS SCHEDULE APPLIES

14.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.

14.2 The terms of this Schedule shall survive:

14.2.1 under the Framework Contract until the later of (a) the termination or expiry of the Framework Contract or (b) the latest date of termination or expiry of any call-off contract entered into under the Framework Contract (which might be after the date of termination or expiry of the Framework Contract); and

14.2.2 under the Call-Off Contract until the termination or expiry of the Call-Off Contract.

15. WHAT HAPPENS WHEN YOUR CREDIT RATING CHANGES

15.1 The Supplier warrants and represents to the Authority that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in Annex 2.

15.2 The Supplier shall promptly (and in any event within five (5) Working Days) notify the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.

15.3 If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Supplier shall ensure that the Monitored Company's auditors thereafter provide the Authority within 10 Working Days of the end of each Contract Year and within 10 Working Days of written

request by the Authority (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Monitored Company as at the end of each Contract Year or such other date as may be requested by the Authority. For these purposes the "quick ratio" on any date means:

$$\frac{A + B + C}{D}$$

where:

- A is the value at the relevant date of all cash in hand and at the bank of the Monitored Company;
- B is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices on the Working Day preceding the relevant date;
- C is the value at the relevant date of all account receivables of the Monitored; and
- D is the value at the relevant date of the current liabilities of the Monitored Company.

15.4 The Supplier shall:

15.4.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and

15.4.2 promptly notify (or shall procure that its auditors promptly notify) the Authority in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

15.5 For the purposes of determining whether a Financial Distress Event has occurred the credit rating of the Monitored Company shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Monitored Company at or below the applicable Credit Rating Threshold.

16. WHAT HAPPENS IF THERE IS A FINANCIAL DISTRESS EVENT

16.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 16.3 to 16.6.

- 16.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Authority that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier ten (10) Working Days to:
- 16.2.1 rectify such late or non-payment; or
 - 16.2.2 demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 16.3 The Supplier shall and shall procure that the other Monitored Companies shall:
- 16.3.1 at the request of the Authority meet the Authority as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of each Contract and delivery of the Deliverables in accordance each Call-Off Contract; and
 - 16.3.2 where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance of each Contract and delivery of the Deliverables in accordance with each Call-Off Contract:
 - (a) submit to the Authority for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event); and
 - (b) provide such financial information relating to the Monitored Company as the Authority may reasonably require.
- 16.4 If the Authority does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Authority within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by the Authority or referred to the Dispute Resolution Procedure.
- 16.5 If the Authority considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

16.6 Following Approval of the Financial Distress Service Continuity Plan by the Authority, the Supplier shall:

16.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance each Contract and delivery of the Deliverables in accordance with each Call-Off Contract;

16.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to the Authority for its Approval, and the provisions of Paragraphs 16.5 and 16.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and

16.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

16.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 4.6.16.6.

16.8 the Authority shall be able to share any information it receives from the Contracting Authority in accordance with this Paragraph with any Contracting Authority who has entered into a Call-Off Contract with the Supplier.

17. WHEN THE AUTHORITY OR THE CONTRACTING AUTHORITY CAN TERMINATE FOR FINANCIAL DISTRESS

17.1 The Authority shall be entitled to terminate this Contract and Contracting Authorities shall be entitled to terminate their Call-Off Contracts for material Default if:

17.1.1 the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 3.4;

17.1.2 the Authority and the Supplier fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or

17.1.3 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.

18. WHAT HAPPENS IF YOUR CREDIT RATING IS STILL GOOD

18.1 Without prejudice to the Supplier's obligations and the Authority's and the Contracting Authority's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review

Joint Schedule 7 (Financial Difficulties)

Crown Copyright 2019

and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

18.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and

18.1.2 the Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

ANNEX 1: RATING AGENCIES

[Rating Agency 1]

[Rating Agency 2]

ANNEX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS

Part 1: Current Rating

Entity	Credit rating (long term)
Supplier	[D&B Threshold]
[Framework Guarantor/ and Call-Off Guarantor]	
[Key Subcontractor]	

Joint Schedule 8 (Guarantee)

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Framework Guarantor"	any person acceptable to the Authority to give a Framework Guarantee;
"Framework Guarantee"	a deed of guarantee in favour of the Authority and all Contracting Authorities in the form set out in the Annex to this Schedule;
"Call-Off Guarantee"	a deed of guarantee in favour of a Contracting Authority in the form set out in the Annex to this Schedule; and
"Call-Off Guarantor"	the person acceptable to a Contracting Authority to give a Call-Off Guarantee;

[Guidance Note: the Authority to insert either requirement for framework guarantee in Paragraph 1 or Paragraph to give an option for Contracting Authorities to request call-off guarantees]

2. FRAMEWORK GUARANTEE

2.1 Where the Authority has notified the Supplier that [the award of the Framework Contract is conditional upon receipt of] [prior to the execution of the first Call-Off Contract the Supplier shall provide] a valid Framework Guarantee, then on or prior to the execution of the [Framework Contract] [first Call-Off Contract], as a condition for the award of the [Framework Contract] [first Call-Off Contract], the Supplier must have delivered to the Authority:

2.1.1 an executed Framework Guarantee from a Framework Guarantor; and

2.1.2 a certified copy extract of the board minutes and/or resolution of the Framework Guarantor approving the execution of the Framework Guarantee.

2.2 If the Supplier fails to deliver the documents as required by Paragraphs 2.1.1 and 2.1.2 above within 30 days of request then the Authority shall be entitled to terminate this Framework Contract without liability and

the Contracting Authority shall be entitled to terminate the Call-Off Contract without liability.

2.3 Where the Authority has procured a Framework Guarantee from the Supplier pursuant to Paragraph 2.1 the Authority may terminate this Framework Contract by issuing a Termination Notice to the Supplier where:

2.3.1 the Framework Guarantor withdraws the Framework Guarantee for any reason whatsoever;

2.3.2 the Framework Guarantor is in breach or anticipatory breach of the Framework Guarantee;

2.3.3 an Insolvency Event occurs in respect of the Framework Guarantor;

2.3.4 the Framework Guarantee becomes invalid or unenforceable for any reason whatsoever; or

2.3.5 the Supplier fails to provide the documentation required by Paragraph 2.1 by the date so specified by the Authority;

and in each case the Framework Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Authority.

2.4 Notwithstanding Clause 19 (Other people's rights in this contract), this Schedule (Guarantee) is intended to confer benefits on Contracting Authorities and is intended to be enforceable by Contracting Authorities by virtue of the CRTPA.]

3. [Call-Off Guarantee

3.1 Where a Contracting Authority has notified the Supplier that the award of the Call-Off Contract by the Contracting Authority shall be conditional upon receipt of a valid Call-Off Guarantee, then, on or prior to the execution of the Call-Off Contract, as a condition for the award of that Call-Off Contract, the Supplier shall deliver to the Contracting Authority:

3.1.1 an executed Call-Off Guarantee from a Call-Off Guarantor; and

3.1.2 a certified copy extract of the board minutes and/or resolution of the Call-Off Guarantor approving the execution of the Call-Off Guarantee.

3.2 Where a Contracting Authority has procured a Call-Off Guarantee from the Supplier under Paragraph 2.4 above, the Contracting Authority may terminate the Call-Off Contract for Material Default where:

3.2.1 the Call-Off Guarantor withdraws the Call-Off Guarantee for any reason whatsoever;

3.2.2 the Call-Off Guarantor is in breach or anticipatory breach of the Call-Off Guarantee;

3.2.3 an Insolvency Event occurs in respect of the Call-Off Guarantor;

Joint Schedule 8 (Guarantee)

Crown Copyright 2019

- 3.2.4 the Call-Off Guarantee becomes invalid or unenforceable for any reason whatsoever; or
- 3.2.5 the Supplier fails to provide the documentation required by Paragraph 3.1 by the date so specified by the Contracting Authority;
- 3.2.6 and in each case the Call-Off Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Contracting Authority.]

Annex 1 – Form of Guarantee

[Guidance Note: this is a draft form of guarantee which can be used to procure either a Framework Guarantee or a Call-Off Guarantee, and so it will need to be amended to reflect the Beneficiary's requirements.]

[INSERT NAME OF THE GUARANTOR]

- AND -

[INSERT NAME OF THE BENEFICIARY]

DEED OF GUARANTEE

DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the day of 20[]

PROVIDED BY:

[Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of the Guarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details] ("**Guarantor**")

WHEREAS:

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

1. DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 **unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;**
- 1.2 **the words and phrases below shall have the following meanings:**

[Guidance Note: Insert and/or settle Definitions, including from the following list, as appropriate to either Framework Guarantee or Call-Off Guarantee]

["Authority"	has the meaning given to it in the Framework Contract;]
["Beneficiary(s)"	means [the Authority and all Contracting Authorities under all Call-Off Contracts] [<i>insert name of the Contracting Authority with whom the Supplier enters into a Call-Off Contract</i>] and "Beneficiaries" shall be construed accordingly;]
["Call-Off Contract"	has the meaning given to it in the Framework Contract;]
["Framework Contract"	means the Framework Contract for the Goods and/or Services dated on or about the date hereof made between the Authority and the Supplier;]
["Goods"	has the meaning given to it in the Framework Contract;]

["Guaranteed Agreement(s)"] means [the Framework Contract and all Call-Off Contracts] [the Call-Off Contract] made between the Beneficiary and the Supplier [from time to time] [**on insert date**];]

"Guaranteed Obligations" means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Supplier to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;

["Services"] has the meaning given to it in the Framework Contract;]

- 1.3 **references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;**
- 1.4 **unless the context otherwise requires, words importing the singular are to include the plural and vice versa;**
- 1.5 **references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;**
- 1.6 **the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;**
- 1.7 **unless the context otherwise requires, reference to a gender includes the other gender and the neuter;**
- 1.8 **unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;**
- 1.9 **unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;**
- 1.10 **references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and**
- 1.11 **references to liability are to include any liability whether actual, contingent, present or future.**

2. GUARANTEE AND INDEMNITY

- 2.1 **The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.**
- 2.2 **The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.**

If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:

- 2.2.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
- 2.2.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.
- 2.3 **As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.**

3. OBLIGATION TO ENTER INTO A NEW CONTRACT

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

4. DEMANDS AND NOTICES

4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

[Insert] Address of the Guarantor in England and Wales]

[Insert] Facsimile Number]

For the Attention of **[Insert]** details]

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

4.2.1 if delivered by hand, at the time of delivery; or

4.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or

4.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.

4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.

4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

5. BENEFICIARY'S PROTECTIONS

- 5.1 **The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.**
- 5.2 **This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:**
- 5.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
- 5.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;
- 5.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
- 5.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 5.3 **The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.**
- 5.4 **The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make**

or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.

- 5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
- 5.8 The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.

6. GUARANTOR INTENT

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

7. RIGHTS OF SUBROGATION

- 7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Supplier

and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

7.1.1 of subrogation and indemnity;

7.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Supplier's obligations; and

7.1.3 to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Supplier and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

8. DEFERRAL OF RIGHTS

8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:

8.1.1 exercise any rights it may have to be indemnified by the Supplier;

8.1.2 claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement;

8.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;

8.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or

8.1.5 claim any set-off or counterclaim against the Supplier;

8.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

9. REPRESENTATIONS AND WARRANTIES

9.1 The Guarantor hereby represents and warrants to the Beneficiary that:

9.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;

- 9.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
- 9.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and performance of a contract pursuant to Clause 3, have been duly authorised by all necessary corporate action and do not contravene or conflict with:
- 9.1.3.1 the Guarantor's memorandum and articles of association or other equivalent constitutional documents;
 - 9.1.3.2 any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
 - 9.1.3.3 the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 9.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 9.1.5 this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

10. PAYMENTS AND SET-OFF

- 10.1 **All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.**
- 10.2 **The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.**
- 10.3 **The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.**

11. GUARANTOR'S ACKNOWLEDGEMENT

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

12. ASSIGNMENT

12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.

12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

13. SEVERANCE

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14. THIRD PARTY RIGHTS

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15. SURVIVAL

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

16. GOVERNING LAW

16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.

16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in

one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).

- 16.4 **The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.**

[Guidance Note: Include the above provision when dealing with the appointment of English process agent by a non English incorporated Guarantor]

- 16.5 **[The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]**

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

[Insert name of the Guarantor] acting by **[Insert/print names]**

Director

Director/Secretary

Joint Schedule 9 (Minimum Standards of Reliability)

1. Standards

- 1.1** No Call-Off Contract with an anticipated contract value in excess of £20 million (excluding VAT) shall be awarded to the Supplier if it does not show that it meets the minimum standards of reliability as set out in the OJEU Notice (“**Minimum Standards of Reliability**”) at the time of the proposed award of that Call-Off Contract.
- 1.2** The Authority shall assess the Supplier’s compliance with the Minimum Standards of Reliability:
- 1.2.1** upon the request of any Contracting Authority; or
 - 1.2.3** whenever it considers (in its absolute discretion) that it is appropriate to do so.
- 1.3** In the event that the Supplier does not demonstrate that it meets the Minimum Standards of Reliability in an assessment carried out pursuant to Paragraph 1.2, the Authority shall so notify the Supplier (and any Contracting Authority in writing) and the Authority reserves the right to terminate its Framework Contract for material Default under Clause 10.4 (When the Authority or the Contracting Authority can end this contract).

Joint Schedule 10 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Default:	[Guidance: Explain the Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by [the Authority/Contracting Authority] :		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Default:	[add effect]		
Steps to be taken to rectification:	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Default	[X] Working Days		
Steps taken to prevent recurrence of Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	

Joint Schedule 10 (Rectification Plan)

Crown Copyright 2019

Signed by the Supplier:		Date:	
Review of Rectification Plan [Authority/Contracting Authority]			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by [Authority/Contracting Authority]		Date:	

Joint Schedule 11 (Processing Data)

Status of the Controller

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA. A Party may act as:
 - (a) “Controller” in respect of the other Party who is “Processor”;
 - (b) “Processor” in respect of the other Party who is “Controller”;
 - (c) “Joint Controller” with the other Party;
 - (d) “Independent Controller” of the Personal Data where there other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

2. Where a Party is a Processor, the only processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
3. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
4. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
5. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
 - (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound,

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

- uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
6. Subject to paragraph 7 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
7. The Processor's obligation to notify under paragraph 6 of this Joint Schedule 11 shall include the provision of further information to the Controller in phases, as details become available.
8. Taking into account the nature of the Processing, the Processor shall provide the Controller with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event; and/or

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
9. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
 10. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
 11. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
 12. Before allowing any Sub-processor to Process any Personal Data related to the Contract, the Processor must:
 - (a) notify the Controller in writing of the intended Subprocessor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
 - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
 13. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
 14. The Relevant Authority may, at any time on not less than 30 Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
 15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

Where the Parties are Joint Controllers of Personal Data

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11 (*Processing Data*).

Independent Controllers of Personal Data

17. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
18. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
19. Where a Party has provided Personal Data to the other Party in accordance with paragraph 7 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
20. The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
21. The Parties shall only provide Personal Data to each other:
 - (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and
 - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
22. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

23. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.
24. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
 - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
 - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
28. Notwithstanding the general application of paragraphs 2 to 15 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 16 to 27 of this Joint Schedule 11.

Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: **[Insert]** Contact details]
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert]** Contact details]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Relevant Authority is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> • [Insert] <i>the scope of Personal Data for which the purposes and means of the Processing by the Supplier is determined by the Relevant Authority]</i> <p>The Supplier is Controller and the Relevant Authority is Processor</p> <p><i>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and the Relevant Authority is the Processor in accordance with paragraph 2 to paragraph 15 of the following Personal Data:</i></p> <ul style="list-style-type: none"> • [Insert] <i>the scope of Personal Data which the purposes and means of the Processing by the Relevant Authority is determined by the Supplier]</i> <p>The Parties are Joint Controllers</p>

	<p><i>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • [Insert] <i>the scope of Personal Data which the purposes and means of the Processing is determined by the both Parties together]</i> <p>The Parties are Independent Controllers of Personal Data</p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i> • <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of Relevant Authority (excluding the Supplier Personnel) engaged in the performance of the Relevant Authority’s duties under the Contract) for which the Relevant Authority is the Controller,</i> • [Insert] <i>the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Relevant Authority cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Relevant Authority]</i> <p>[Guidance] <i>where multiple relationships have been identified above, please address the below rows in the table for in respect of each relationship identified]</i></p>
<p>Duration of the Processing</p>	<p><i>[Clearly set out the duration of the Processing including dates]</i></p>

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

Nature and purposes of the Processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.</i></p> <p><i>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>
Type of Personal Data	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i></p>
Categories of Data Subject	<p><i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p>
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<p><i>[Describe how long the data will be retained for, how it be returned or destroyed]</i></p>

Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Law in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the **[Supplier/Relevant Authority]**:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the **[Supplier's/Relevant Authority's]** privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Law as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Relevant Authority each undertake that they shall:

- (a) report to the other Party on request on:
 - (i) the volume of Data Subject Request (or purported Data Subject Requests) from Data Subjects (or third parties on their behalf);

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, save where such disclosure or transfer is specifically authorised under the Contract or is required by Law). For the avoidance of doubt to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (i) are aware of and comply with their 's duties under this Annex 2 (Data Sharing Agreement) and those in respect of Confidential Information

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

- (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
- (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Law;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (i) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Law, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and
- (i) ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Law and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Law to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the Relevant Authority and its advisors with:

- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;
- (b) all reasonable assistance, including:
 - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

- (ii) co-operation with the other Party including taking such reasonable steps as are directed by the Relevant Authority to assist in the investigation, mitigation and remediation of a Personal Data Breach;
- (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
- (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Supplier shall permit:

- (a) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Law; and/or
- (b) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Supplier so far as relevant to

the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

4.2 The Relevant Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

5.1 The Parties shall:

- (a) provide all reasonable assistance to the each other to prepare any data protection impact assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

[Guidance: This clause represents a risk share, you may wish to reconsider the apportionment of liability and whether recoverability of losses are likely to be hindered by the contractual limitation of liability provisions]

7.1 If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

- (a) if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost,

full cooperation and access to conduct a thorough audit of such Personal Data Breach;

- (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- (c) if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (*Resolving disputes*).

16.6 7.2 If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

16.7 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):

16.7.1

- (a) if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
- (b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial

Joint Schedule 11 (Processing Data)

Crown Copyright 2019

responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.

9. Termination

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Control Memorandum of Understanding*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 (*Ending the contract*).

10. Sub-Processing

10.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Law.

11. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Law and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Law and its privacy policy.

Joint Schedule 12 (Supply Chain Visibility)

2. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities;
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;
"Supply Chain Information Report Template"	the document at Annex 1 of this Schedule 12; and
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

3. Visibility of Sub-Contract Opportunities in the Supply Chain

3.1 The Supplier shall:

- 3.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 3.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 3.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;

Joint Schedule 12 (Supply Chain Visibility)

Crown Copyright 2019

- 3.1.4 provide reports on the information at Paragraph 2.1.3 to the Relevant Authority in the format and frequency as reasonably specified by the Relevant Authority; and
 - 3.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 3.2 Each advert referred to in Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 3.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 3.4 Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

4. Visibility of Supply Chain Spend

- 4.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “SME Management Information Reports”) to the Relevant Authority which incorporates the data described in the Supply Chain Information Report Template which is:
- (a) the total contract revenue received directly on the Contract;
 - (b) the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
 - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 4.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Relevant Authority from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Relevant Authority issuing a replacement version. The Relevant Authority agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.

- 4.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.

Annex 1

Supply Chain Information Report template



Supply Chain Information
Report templat

Call-Off Schedule 1 (Transparency Reports)

- 1.1 The Supplier recognises that the Contracting Authority is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Contracting Authority with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Contracting Authority for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Contracting Authority rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Contracting Authority. If the Parties fail to agree on a draft Transparency Report the Contracting Authority shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Contracting Authority at the frequency referred to in the Annex of this Schedule.

Call-Off Schedule 1 (Transparency Reports)

Call-Off Ref:

Crown Copyright 2019

Annex A: List of Transparency Reports

Title	Content	Format	Frequency
[Performance]	[]	[]	[]
[Call-Off Contract Charges]	[]	[]	[]
[Key Subcontractors]	[]	[]	[]
[Technical]	[]	[]	[]
[Performance management]	[]	[]	[]

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Call-Off Schedule 2 (Staff Transfer)

[Guidance note: Contracting Authorities will need to ensure that appropriate provisions are included to deal with staff transfer on both entry and exit, and, irrespective of whether TUPE does apply on entry if there are employees eligible for New Fair Deal pension protection then the appropriate pensions provisions will also need to be selected.

If there is a staff transfer from the Contracting Authority on entry (1st generation) then Part A shall apply.

If there is a staff transfer from former/incumbent supplier on entry (2nd generation), Part B shall apply.

If there is both a 1st and 2nd generation staff transfer on entry, then both Part A and Part B shall apply.

If either Part A and/or Part B apply, then consider whether Part D (Pensions) shall apply and the Contracting Authority shall indicate on the Order Form which Annex shall apply (either D1 (CSPS), D2 (NHSPS), or D3 (LGPS)). Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If there is no staff transfer (either 1st generation or 2nd generation) at the Start Date then Part C shall apply and Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If the position on staff transfers is not known at the bid stage, include Parts A, B, C and D at the bid stage and then update the Contracting Authority Contract Details before signing to specify whether Parts A and/or B, or C and D apply to the Contract.

Part E (dealing with staff transfer on exit) shall apply to every Contract.

For further guidance on this Schedule contact Government Legal Department's Employment Law Group]

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

1. Definitions

1.1 In this Schedule, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Employee Liability"

all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Contracting Authority or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-contractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;
- f) claims whether in tort, contract or statute or otherwise;

any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

"Former Supplier"	a supplier supplying the Deliverables to the Contracting Authority before the Relevant Transfer Date that are the same as or substantially similar to the Deliverables (or any part of the Deliverables) and shall include any Sub-contractor of such supplier (or any Sub-contractor of any such Sub-contractor);
"Partial Termination"	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When the Authority or the Contracting Authority can end this contract) or 10.6 (When the Supplier can end the contract);
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D: Pensions, shall include the Commencement Date, where appropriate;
"Supplier's Final Supplier Personnel List"	a list provided by the Supplier of all Supplier Personnel whose will transfer under the Employment Regulations on the Service Transfer Date;
"Supplier's Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Staffing Information"	<p>in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Contracting Authority may reasonably request (subject to all applicable provisions of the Data Protection Laws), but including in an anonymised format:</p> <ul style="list-style-type: none">(a) their ages, dates of commencement of employment or engagement, gender and place of work;(b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

"Term"

the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;

"Transferring Contracting Authority Employees"

those employees of the Contracting Authority to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

"Transferring Former Supplier Employees" in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, the Contracting Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be and where the Sub-contractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

3. Which parts of this Schedule apply

Only the following parts of this Schedule shall apply to this Call Off Contract:

[Delete] if not applicable to the Call Off Contract]

- *[Part A (Staff Transfer At Start Date – Outsourcing From the Contracting Authority)]*
- *[Part B (Staff Transfer At Start Date – Transfer From Former Supplier)]*
- *[Part C (No Staff Transfer On Start Date)]*
- *[Part D (Pensions)]*
 - *[- Annex D1 (CSPS)]*
 - *[- Annex D2 (NHSPS)]*
 - *[- Annex D3 (LGPS)]*
 - *[- Annex D4 (Other Schemes)]*
- *Part E (Staff Transfer on Exit)*

Part A: Staff Transfer at the Start Date Outsourcing from the Contracting Authority

1. What is a relevant transfer

1.1 The Contracting Authority and the Supplier agree that:

- 1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Contracting Authority Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Contracting Authority and the Transferring Contracting Authority Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-Contractor and each such Transferring Contracting Authority Employee.
- 1.1.3 The Contracting Authority shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Contracting Authority Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.

2. Indemnities the Contracting Authority must give

- 2.1 Subject to Paragraph 2.2, the Contracting Authority shall indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission by the indemnifying party in respect of any Transferring Contracting Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contracting Authority Employee occurring before the Relevant Transfer Date.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
- 2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of the Contracting Authority who is not identified as a Transferring Contracting Authority Employee claims, or it is determined in relation to any employees of the Contracting Authority, that his/her contract of employment has been

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

transferred from the Contracting Authority to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then -

- 2.3.1 the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Contracting Authority in writing;
- 2.3.2 the Contracting Authority may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
- 2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
- 2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Contracting Authority will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Contracting Authority's employees referred to in this Paragraph 2.3.

2.4 The indemnity in Paragraph 2.3 shall not apply to any claim:

- 2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or
- 2.4.2 (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure.

2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.

2.6 If the Supplier and/or any Sub-contractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Sub-contractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Contracting Authority against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Sub-contractor in respect of any

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Transferring Contracting Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contracting Authority Employee whether occurring before, on or after the Relevant Transfer Date.

- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contracting Authority whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Contracting Authority's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Contracting Authority Employees, from (and including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and any other sums due under Part D: Pensions.

4. Information the Supplier must provide

The Supplier shall promptly provide to the Contracting Authority in writing such information as is necessary to enable the Contracting Authority to carry out its duties under regulation 13 of the Employment Regulations. The Contracting Authority shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. Cabinet Office requirements

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall comply with any requirement notified to it by the Contracting Authority relating to pensions in respect of any Transferring Contracting Authority Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
- 5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

6. Pensions

6.1 The Supplier shall comply with:

6.1.1 all statutory pension obligations in respect of all Transferring Contracting Authority Employees; and

6.1.2 the provisions in Part D: Pensions.

Part B: Staff transfer at the Start Date

Transfer from a former Supplier on Re-procurement

1. What is a relevant transfer

- 1.1 The Contracting Authority and the Supplier agree that:
 - 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
 - 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-contractor and each such Transferring Former Supplier Employee.
- 1.2 The Contracting Authority shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.

2. Indemnities given by the Former Supplier

- 2.1 Subject to Paragraph 2.2, the Contracting Authority shall procure that each Former Supplier shall indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
- 2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:

- 2.3.1 the Supplier will within 5 Working Days of becoming aware of that fact notify the Contracting Authority and the relevant Former Supplier in writing;
- 2.3.2 the Former Supplier may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
- 2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
- 2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Contracting Authority shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in Paragraph 2.3.

- 2.4 The indemnity in Paragraph 2.3 shall not apply to any claim:
 - 2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Supplier and/or any Sub-contractor; or
 - 2.4.2 that the termination of employment was unfair because the Supplier and/or Sub-contractor neglected to follow a fair dismissal procedure.
- 2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.
- 2.6 If the Supplier and/or any Sub-contractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Sub-contractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

3. Indemnities the Supplier must give and its obligations

- 3.1 Subject to Paragraph 3.1, the Supplier shall indemnify the Contracting Authority, and the Former Supplier against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Sub-

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date.

- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due under Part D: Pensions.

4. Information the Supplier must give

The Supplier shall promptly provide to the Contracting Authority and/or at the Contracting Authority's direction, the Former Supplier, in writing such information as is necessary to enable the Contracting Authority and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Contracting Authority shall procure that the Former Supplier shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. Cabinet Office requirements

- 5.1 The Supplier shall comply with any requirement notified to it by the Contracting Authority relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

6. Limits on the Former Supplier's obligations

Notwithstanding any other provisions of this Part B, where in this Part B the Contracting Authority accepts an obligation to procure that a Former Supplier

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

does or does not do something, such obligation shall be limited so that it extends only to the extent that the Contracting Authority's contract with the Former Supplier contains a contractual right in that regard which the Contracting Authority may enforce, or otherwise so that it requires only that the Contracting Authority's must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. Pensions

7.1 The Supplier shall comply with:

7.1.1 all statutory pension obligations in respect of all Transferring Former Supplier Employees; and

7.1.2 the provisions in Part D: Pensions.

Part C: No Staff Transfer on the Start Date

1. What happens if there is a staff transfer

1.1 The Contracting Authority and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Contracting Authority and/or any Former Supplier.

1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Contracting Authority and/or a Former Supplier claims, or it is determined in relation to any employee of the Contracting Authority and/or a Former Supplier, that his/her contract of employment has been transferred from the Contracting Authority and/or the Former Supplier to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then:

1.2.1 the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Contracting Authority in writing;

1.2.2 the Contracting Authority may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;

1.2.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;

1.2.4 if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4:

(a) the Contracting Authority will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Contracting Authority's employees referred to in Paragraph 1.2; and

(b) the Contracting Authority will procure that the Former Supplier indemnifies the Supplier and/or any Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2.

1.3 The indemnities in Paragraph 1.2 shall not apply to any claim:

1.3.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

employees in relation to any alleged act or omission of the Supplier and/or Sub-contractor; or

- 1.3.2 any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure
- 1.4 The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Commencement Date.
- 1.5 If the Supplier and/or the Sub-contractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Sub-contractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Contracting Authority and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.

2. Limits on the Former Supplier's obligations

Where in this Part C the Contracting Authority accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Contracting Authority's contract with the Former Supplier contains a contractual right in that regard which the Contracting Authority may enforce, or otherwise so that it requires only that the Contracting Authority must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

Part D: Pensions

1. Definitions

In this Part D, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Admission Agreement"	means either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
"Broadly Comparable"	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and "Broad Comparability" shall be construed accordingly;</p>
"CSPS"	the schemes as defined in Annex D1 to this Part D;
"Fair Deal Employees"	<p>those:</p> <p>(a) Transferring Contracting Authority Employees; and/or</p> <p>(b) Transferring Former Supplier Employees; and/or</p>

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- (c) employees who are not Transferring Contracting Authority Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C;
- (d) where the Former Supplier becomes the Supplier those employees;

who at the Commencement Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Contracting Authority;

"Fair Deal Schemes"	means the relevant Statutory Scheme or a Broadly Comparable pension scheme;
"Fund Actuary"	means Fund Actuary as defined in Annex D3 to this Part D;
"LGPS"	the schemes as defined in Annex D3 to this Part D;
"NHSPS"	the schemes as defined in Annex D2 to this Part D;
"New Fair Deal"	the revised Fair Deal position set out in the HM Treasury guidance: " <i>Fair Deal for Staff Pensions: Staff Transfer from Central Government</i> " issued in October 2013 including: <ul style="list-style-type: none">(a) any amendments to that document immediately prior to the Relevant Transfer Date; and(b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the Authority or Contracting Authority; and
"Statutory Schemes"	means the CSPS, NHSPS or LGPS.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

2. Supplier obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
 - 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
 - 2.3.2 to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

3. Supplier obligation to provide information

- 3.1 The Supplier undertakes to the Contracting Authority:
 - 3.1.1 to provide all information which the Contracting Authority may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
 - 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Contracting Authority (such consent not to be unreasonably withheld or delayed).

4. Indemnities the Supplier must give

- 4.1 The Supplier undertakes to the Contracting Authority to indemnify and keep indemnified the Authority, NHS Pensions the Contracting Authority and/or any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPS Admission Agreement and/or the Direction Letter and/or the LGPS Admission Agreement or relates to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Fair Deal Schemes.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- 4.2 The Supplier hereby indemnifies the Authority, NHS Pensions, the Contracting Authority and/or any Replacement Supplier and/or Replacement Sub-contractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
- 4.2.1 relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or
 - 4.2.2 arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.
- 4.3 The indemnities in this Part D and its Annexes:
- 4.3.1 shall survive termination of this Contract; and
 - 4.3.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute between the Authority and/or the Contracting Authority and/or the Supplier or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Authority and/or the Contracting Authority and/or the Supplier be referred to an independent Actuary:
- 5.1.1 who will act as an expert and not as an arbitrator;
 - 5.1.2 whose decision will be final and binding on the Authority and/or the Contracting Authority and/or the Supplier; and
 - 5.1.3 whose expenses shall be borne equally by the Authority and/or the Contracting Authority and/or the Supplier unless the independent Actuary shall otherwise direct.

6. Other people's rights

- 6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Sub-contractor in his or her or its own right under section 1(1) of the CRTPA.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

7. What happens if there is a breach of this Part D

7.1 The Supplier agrees to notify the Contracting Authority should it breach any obligations it has under this Part D and agrees that the Contracting Authority shall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or

7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Contracting Authority giving particulars of the breach and requiring the Supplier to remedy it.

8. Transferring New Fair Deal Employees

8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations) the Supplier shall and shall procure that any relevant Sub-Contractor shall:

8.1.1 consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and

8.1.2 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.

10. Broadly Comparable Pension Schemes

10.1 If either:

10.1.1 the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and or **Error! Reference source not found.** of Annex D3: LGPS apply; and/or

10.1.2 the Contracting Authority agrees, having considered the exceptional cases provided for in New Fair Deal, (such agreement not to be unreasonably withheld) that the Supplier (and/or its Sub-contractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the Relevant Transfer Date or if later cessation of participation in the Statutory Scheme until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Contracting Authority.

- 10.2 Where the Supplier has set up a Broadly Comparable pension scheme or schemes pursuant to the provisions of Paragraph 10.1, the Supplier shall (and shall procure that any of its Sub-contractors shall):
 - 10.2.1 supply to the Contracting Authority details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than 28 days before the Relevant Transfer Date;
 - 10.2.2 fully fund any such Broadly Comparable pension scheme in accordance with the funding requirements set by that Broadly Comparable pension scheme's Actuary or by the Government Actuary's Department for the period ending on the Service Transfer Date;
 - 10.2.3 instruct any such Broadly Comparable pension scheme's Actuary to, and to provide all such co-operation and assistance in respect of any such Broadly Comparable pension scheme as the Replacement Supplier and/or the Authority and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or the Contracting Authority may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
 - 10.2.4 provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Supplier and/or relevant Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is terminated;
 - 10.2.5 allow and make all necessary arrangements to effect, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the relevant Statutory Scheme and as is relevant on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Fair Deal. For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the appropriate Statutory Scheme to fund day for day service ("**Shortfall**"), the Supplier or the Sub-contractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Sub-contractor, the Shortfall shall be paid by the Supplier; and

- 10.2.6 indemnify the Authority and/or the Contracting Authority and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 above.

Annex D1: Civil Service Pensions Schemes (CSPS)

1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"CSPS Admission Agreement"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPS Admission Agreement;
"CSPS"	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; [Delete after 30 September 2018: the Designated Stakeholder Pension Scheme which is scheduled to close to new members in September 2018] and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

2. Access to equivalent pension schemes after transfer

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the CSPS for whatever reason at a time when it has CSPS Eligible Employees, that it will, at no extra cost to the Contracting Authority, provide to any Fair Deal Employee who immediately prior to such cessation of participation

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

remained a CSPA Eligible Employee with access to a pension scheme which is Broadly Comparable to the CSPA on the date the CSPA Eligible Employees ceased to participate in the CSPA.

Annex D2: NHS Pension Schemes

1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Direction Letter" an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Sub-contractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Sub-contractor in the NHSPS in respect of the NHSPS Eligible Employees;

"NHSPS Eligible Employees" each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Contracting Authority, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to the NHSPS pursuant to an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal and were permitted to re-join the NHSPS, having been formerly in employment with the Contracting Authority, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee;

"NHS Body"	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
"NHS Pensions"	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
"NHSPS"	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations;
"NHS Pension Scheme Arrears"	any failure on the part of the Supplier or its Sub-contractors (if any) to pay employer's contributions or deduct and pay across employee's contributions to the NHSPS or meet any other financial obligations under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees;
"NHS Pension Scheme Regulations"	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

"NHS Premature Retirement Rights"	rights to which any Fair Deal Employee (had they remained in the employment of the Contracting Authority, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
"Pension Benefits"	any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme; and
"Retirement Benefits Scheme"	a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

2. Membership of the NHS Pension Scheme

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any NHSPS Eligible Employee compulsorily transfers as a result of the award of this Contract, if not an NHS Body or other employer which participates automatically in the NHSPS, must by or as soon as reasonably practicable after the Relevant Transfer Date, each secure a Direction Letter to enable the NHSPS Eligible Employees to retain either continuous active membership of or eligibility for, the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract, and have a right to membership or eligibility of that scheme under the terms of the Direction Letter.
- 2.2 The Supplier must supply to the Contracting Authority by or as soon as reasonably practicable after the Relevant Transfer Date a complete copy of each Direction Letter.
- 2.3 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Eligible Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- 2.4 The Supplier will (and will procure that its Sub-contractors (if any) will) comply with the terms of the Direction Letter, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health in respect of the NHSPS Eligible Employees for so long as it remains bound by the terms of any such Direction Letter.
- 2.5 Where any employee omitted from the Direction Letter supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Eligible Employee, the Supplier will (and will procure that its Sub-contractors (if any) will) treat that person as if they had been an NHSPS Eligible Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.6 The Supplier will (and will procure that its Sub-contractors (if any) will) as soon as reasonably practicable and at its (or its Sub-contractor's) cost, obtain any guarantee, bond or indemnity that may from time to time be required by the Secretary of State for Health.

3. Access to NHS Pension Schemes after transfer

The Supplier will procure that with effect from the Relevant Transfer Date the NHSPS Eligible Employees shall be either eligible for or remain in continuous active membership of (as the case may be) the NHSPS for employment from (and including) the Relevant Transfer Date.

4. Continuation of early retirement rights after transfer

From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Sub-contractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Eligible Employees that are identical to the benefits they would have received had they remained employees of the Contracting Authority, an NHS Body or other employer which participates automatically in the NHSPS.

5. What the Contracting Authority do if the Supplier breaches its pension obligations

- 5.1 The Supplier agrees that the Contracting Authority is entitled to make arrangements with NHS Pensions for the Contracting Authority to be notified if the Supplier (or its Sub-contractor) breaches the terms of its Direction Letter. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Contracting Authority in the event that it (or its Sub-contractor) breaches the terms of its Direction Letter.
- 5.2 If the Contracting Authority is entitled to terminate the Contract or the Supplier (or its Sub-contractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Contracting Authority may in its sole discretion, and instead of exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Sub-contractor, as

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Contracting Authority. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Sub-contractors.

- 5.3 In addition to the Contracting Authority's right to terminate the Contract, if the Contracting Authority is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Contracting Authority will be entitled to deduct all or part of those arrears from any amount due to be paid under this Contract or otherwise.

6. Compensation when pension scheme access can't be provided

- 6.1 If the Supplier (or its Sub-contractor, if relevant) is unable to provide the NHSPS Eligible Employees with either:
- 6.1.1 membership of the NHSPS (having used its best endeavours to secure a Direction Letter); or
 - 6.1.2 access to a Broadly Comparable pension scheme,
- the Contracting Authority may in its sole discretion permit the Supplier (or any of its Sub-contractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Sub-contractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Eligible Employees. The Supplier must meet (or must procure that the relevant Sub-contractor meets) the costs of the Contracting Authority determining whether the level of compensation offered is reasonable in the circumstances.
- 6.2 This flexibility for the Contracting Authority to allow compensation in place of Pension Benefits is in addition to and not instead of the Contracting Authority's right to terminate the Contract.

7. Indemnities that a Supplier must give

- 7.1 The Supplier must indemnify and keep indemnified the Authority, the Contracting Authority and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Eligible Employee that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.
- 7.2 The Supplier must indemnify and keep indemnified the Contracting Authority, NHS Pensions and any Replacement Supplier against all Losses arising out of the Supplier (or its Sub-contractor) allowing anyone who is not an NHSPS Eligible Employee to join or claim membership of the NHSPS at any time during the Contract Period.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

8. Sub-Contractors

- 8.1 If the Supplier enters into a Sub-Contract for the delivery of all or part or any component of the Services which will involve the transfer of employment of any NHSPS Eligible Employee it will impose obligations on its Sub-contractor in identical terms as those imposed on the Supplier in relation to Pension Benefits and NHS Premature Retirement Rights by this Annex, including requiring that:
- 8.1.1 if the Supplier has secured a Direction Letter, the Sub-contractor also secures a Direction Letter in respect of the NHSPS Eligible Employees for their future service with the Sub-contractor as a condition of being awarded the Sub-Contract and the Supplier shall be responsible for ensuring that the Contracting Authority receives a complete copy of each such Sub-contractor direction letter as soon as reasonably practicable; or
 - 8.1.2 if, in accordance with Paragraph 4 of this Annex, the Supplier has offered the NHSPS Eligible Employees access to a pension scheme under which the benefits are Broadly Comparable to those provided under the NHSPS, the Sub-contractor either secures a Direction Letter in respect of the NHSPS Eligible Employees or (with the prior consent of the Contracting Authority) provides NHSPS Eligible Employees with access to a scheme with Pension Benefits which are Broadly Comparable to those provided under the NHSPS whereupon the provisions of Paragraph 10 below (Bulk Transfer Obligations in relation to any Broadly Comparable Scheme) shall apply.
- 8.2 The Supplier shall procure that each Sub-contractor provides indemnities to the Contracting Authority, NHS Pensions and/or any Replacement Supplier and/or Replacement Sub-contractor that are identical to the indemnities set out in Paragraph 7 of this Annex B. Where a Sub-contractor fails to satisfy any claim made under such one or more indemnities, the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

Annex D3:

Local Government Pension Schemes (LGPS)

[Guidance: Note the LGPS unlike the CSPA & NHSPA is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Authority, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether the Authority and or the Contracting Authority can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

1. Definitions

- 1.1 In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Administering Authority"	in relation to the Fund [insert name] , the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Authority of that Fund;
"Fund"	[insert name], a pension fund within the LGPS;
"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013;

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013);
"LGPS Eligible Employees"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and
"LGPS Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. Supplier must become a LGPS admission body

- 2.1 Where the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date, the Supplier shall become an LGPS Admission Body and shall on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date.
- 2.2 The LGPS Admission Agreement must ensure that all LGPS Eligible Employees covered by that Agreement who were active LGPS members immediately before the Relevant Transfer Date are admitted to the LGPS with effect on and from the Relevant Transfer Date. Any LGPS Eligible Employees who were eligible to join the LGPS but were not active LGPS members immediately before the Relevant Transfer Date must retain the ability to join the LGPS after the Relevant Transfer Date if they wish to do so.
- 2.3 The Supplier shall provide any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.
- 2.4 The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.

3. Right of set-off

The Contracting Authority shall have a right to set off against any payments due to the Supplier under the Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Supplier (or from any relevant Sub-contractor)

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

under an LGPS Admission Agreement and shall pay such amount to the relevant Fund.

4. Supplier ceases to be an LGPS Admission Body

If the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date and the Supplier either cannot or does not participate in the LGPS, the Supplier shall offer such LGPS Eligible Employee membership of a pension scheme Broadly Comparable to the LGPS.

5. Discretionary benefits

Where the Supplier is an LGPS Admission Body, the Supplier shall award benefits to the LGPS Eligible Employees under the LGPS in circumstances where the LGPS Eligible Employees would have received such benefits had they still been employed by their previous employer. Where such benefits are of a discretionary nature, they shall be awarded on the basis of the previous employer's written policy in relation to such benefits at the time of the Relevant Transfer Date.

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

Annex D4: Other Schemes

[Guidance: Placeholder for Pension Schemes other than LGPS, CSPA & NHSPA]

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Contracting Authority of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
 - 1.1.3 the date which is 12 Months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Contracting Authority at any time (provided that the Contracting Authority shall only be entitled to make one such request in any 6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Contracting Authority.

- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Contracting Authority or at the direction of the Contracting Authority to any Replacement Supplier and/or any Replacement Sub-contractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Contracting Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.
- 1.4 The Supplier warrants, for the benefit of The Contracting Authority, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, 1.1.2 and 1.1.1, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall, unless otherwise instructed by the Contracting Authority (acting reasonably):

not replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade,

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Personnel (including any payments connected with the termination of employment);

- 1.5.1 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.2 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.3 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.4 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;
- 1.5.5 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Contracting Authority and/or the Replacement Supplier and/or Replacement Sub-contractor;
- 1.5.6 give the Contracting Authority and/or the Replacement Supplier and/or Replacement Sub-contractor reasonable access to Supplier Personnel and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Contracting Authority, Replacement Supplier and/or Replacement Sub-contractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.7 co-operate with the Contracting Authority and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.8 promptly notify the Contracting Authority or, at the direction of the Contracting Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or received from any persons

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect;
- 1.5.9 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Contracting Authority and/or the Replacement Supplier (unless otherwise instructed by the Contracting Authority (acting reasonably));
 - 1.5.10 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
 - 1.5.11 fully fund any Broadly Comparable pension schemes set up by the Supplier;
 - 1.5.12 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);
 - 1.5.13 promptly provide to the Contracting Authority such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Contracting Authority may reasonably request in advance of the expiry or termination of this Contract; and
 - 1.5.14 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Effective Date and up to four times during the last 12 Months of the Term, the Contracting Authority may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Contracting Authority may reasonably require which shall include:
- 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Contracting Authority, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Contracting Authority or, at the direction of the Contracting Authority, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
 - 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;
 - 1.7.3 details of cumulative tax paid;
 - 1.7.4 tax code;
 - 1.7.5 details of any voluntary deductions from pay; and
 - 1.7.6 bank/building society account details for payroll purposes.

2. Staff Transfer when the contract ends

- 2.1 A change in the identity of the supplier of the Services (or part of the Services), howsoever arising, may constitute a Relevant Transfer to which the Employment Regulations will apply. The Contracting Authority and the Supplier agree that where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Contracting Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.

- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations then.
- 2.5.1 the Replacement Supplier and/or Replacement Sub-contractor will, within 5 Working Days of becoming aware of that fact, notify the Contracting Authority and the Supplier in writing;
- 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Sub-contractor;
- 2.5.3 if such offer of employment is accepted, the Replacement Supplier and/or Replacement Sub-contractor shall immediately release the person from its employment;
- 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, the Replacement Supplier and/or Replacement Sub-contractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Sub-contractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5.

- 2.6 The indemnity in Paragraph 2.5 shall not apply to:
- 2.6.1 (a) any claim for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of

Call-Off Schedule 2 (Staff Transfer)

Call-Off Ref:

Crown Copyright 2019

- the Replacement Supplier and/or Replacement Sub-contractor,
or
- 2.6.2 (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Supplier and/or Replacement Sub-contract accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
- 2.9 The Supplier shall promptly provide the Contracting Authority and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Contracting Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Contracting Authority shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.10 Subject to Paragraph 2.9, the Contracting Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its Sub-contractors against any Employee Liabilities arising from or as a result of any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.
- 2.11 The indemnity in Paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Personnel List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

Call-Off Schedule 3 (Continuous Improvement)

17. Contracting Authorities Rights

17.1 The Contracting Authority and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Contracting Authority may give the Authority the right to enforce the Contracting Authorities rights under this Schedule.

18. Supplier's Obligations

18.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Contracting Authorities costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Contracting Authority.

18.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Contracting Authority of the Deliverables and the way it provides them, with a view to reducing the Contracting Authorities costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Contracting Authority must provide each other with any information relevant to meeting this objective.

18.3 In addition to Paragraph 18.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Contracting Authorities Approval. The Continuous Improvement Plan must include, as a minimum, proposals:

18.3.1 identifying the emergence of relevant new and evolving technologies;

18.3.2 changes in business processes of the Supplier or the Contracting Authority and ways of working that would provide cost savings and/or enhanced benefits to the Contracting Authority (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);

18.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and

18.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Contracting Authority in meeting their sustainability objectives.

18.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Contracting Authority for Approval

Call-Off Schedule 3 (Continuous Improvement)

Call-Off Ref:

Crown Copyright 2019

within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.

- 18.5 The Contracting Authority shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 18.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 18.7 If the Contracting Authority wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Contracting Authority or the Authority.
- 18.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 18.5:
 - 18.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
 - 18.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 18.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 18.3.
- 18.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 18.11 Should the Supplier's costs in providing the Deliverables to the Contracting Authority be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Contracting Authority by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 18.12 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Contracting Authority deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

Call-Off Schedule 4 (Call-Off Tender)

Call-Off Ref:

Crown Copyright 2019

Call-Off Schedule 4 (Call Off Tender)

[Guidance for Contracting Authorities: After a further competition, if the Supplier's bid has additional things that you would like included in the contract, insert the Supplier's bid here.

[Insert Call-Off Tender Here]

Call-Off Schedule 5 (Pricing Details)

Call-Off Ref:

Crown Copyright 2019

Call-Off Schedule 5 (Pricing Details)

[This Schedule should be used to show further detailed pricing information, in addition to the pricing in the Order Form]

1. Where the Contracting Authority has adopted the E-Payment Solution, the Supplier shall be solely liable for any merchant fee levied by the E-Payment Provider.

1.1 “E-Payment Provider” means the provider of the embedded commercial payment card(s) technology and services associated with the provision of the E-Payment Mechanism;

1.2 “E-Payment Solutions” means the mechanism supporting prompt payment under the Call Off Contract and involving provision of embedded commercial payment card(s) technology and associated services to the Service Provider and the Customer by an E-Payment Provider;

Call-Off Schedule 6 (ICT Services)

1. Definitions

1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

18.13 **"Contracting Authority Property"** 18.14 the property, other than real property and IPR, including the Contracting Authority System, any equipment issued or made available to the Supplier by the Contracting Authority in connection with this Contract;

18.15 **"Contracting Authority Software"** 18.16 any software which is owned by or licensed to the Contracting Authority and which is or will be used by the Supplier for the purposes of providing the Deliverables;

18.17 **"Contracting Authority System"** 18.18 the Contracting Authorities computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Contracting Authority or the Supplier in connection with this Contract which is owned by or licensed to the Contracting Authority by a third party and which interfaces with the Supplier System or which is necessary for the Contracting Authority to receive the Deliverables;

18.19 **"Commercial off the shelf Software" or "COTS Software"** 18.20 Non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms

18.21 **"Defect"** any of the following:
g) any error, damage or defect in the manufacturing of a Deliverable; or
h) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or

18.22 i) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Contracting Authority or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

Deliverable from passing any Test required under this Call Off Contract; or

j) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Contracting Authority or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;

18.23 "Emergency Maintenance"

18.24 ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;

18.25 "ICT Environment"

18.26 the Contracting Authority System and the Supplier System;

18.27 "Licensed Software"

18.28 all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Contracting Authority for the purposes of or pursuant to this Call Off Contract, including any COTS Software;

18.29 "Maintenance Schedule"

18.30 has the meaning given to it in paragraph 8 of this Schedule;

18.31 "Malicious Software"

18.32 any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

18.33 "New Release"

18.34 an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

retaining the original designated purpose of that item;

18.35 "Open Source Software"

18.36 computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;

18.37 "Operating Environment"

18.38 means the Contracting Authority System and any premises (including the Contracting Authority Premises, the Supplier's premises or third party premises) from, to or at which:

- k) the Deliverables are (or are to be) provided; or
- l) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or
- m) where any part of the Supplier System is situated;

18.39 "Permitted Maintenance"

18.40 has the meaning given to it in paragraph 8.2 of this Schedule;

18.41 "Quality Plans"

18.42 has the meaning given to it in paragraph 6.1 of this Schedule;

18.43 "Sites"

18.44 has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Call Off Schedule shall also include any premises from, to or at which physical interface with the Contracting Authority System takes place;

18.45 "Software"

18.46 Specially Written Software COTS Software and non-COTS Supplier and third party Software;

18.47 "Software Supporting Materials"

18.48 has the meaning given to it in paragraph 9.1 of this Schedule;

18.49 "Source Code"

18.50 computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;

18.51 "Specially Written Software"

18.52 any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;

18.53

18.54

18.55 "Supplier System"

18.56 the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Contracting Authority System);

18.57

18.58

2. When this Schedule should be used

2.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

3. Contracting Authority due diligence requirements

3.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;

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

3.1.2. operating processes and procedures and the working methods of the Contracting Authority;

3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Contracting Authority Assets; and

3.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

Supplier will require the benefit of for the provision of the Deliverables.

- 3.2. The Supplier confirms that it has advised the Contracting Authority in writing of:
 - 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
 - 3.2.2. the actions needed to remedy each such unsuitable aspect; and
 - 3.2.3. a timetable for and the costs of those actions.

4. Licensed software warranty

- 4.1. The Supplier represents and warrants that:
 - 4.1.1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Contracting Authority which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Contracting Authority;
 - 4.1.2. all components of the Specially Written Software shall:
 - 4.1.2.1. be free from material design and programming errors;
 - 4.1.2.2. perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 14 (Service Levels) and Documentation; and
 - 4.1.2.3. not infringe any IPR.

5. Provision of ICT Services

- 5.1. The Supplier shall:
 - 5.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Contracting Authority and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Contracting Authority three (3) Months before the release of any new COTS Software or Upgrade;
 - 5.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
 - 5.1.3. ensure that the Supplier System will be free of all encumbrances;
 - 5.1.4. ensure that the Deliverables are fully compatible with any Contracting Authority Software, Contracting Authority System, or otherwise used by the Supplier in connection with this Contract;

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

- 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Contracting Authorities operations when providing the Deliverables;

6. Standards and Quality Requirements

- 6.1. The Supplier shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2. The Supplier shall seek Approval from the Contracting Authority (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
- 6.3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Call Off Contract Period:
 - 6.4.1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3. obey all lawful instructions and reasonable directions of the Contracting Authority (including, if so required by the Contracting Authority, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Contracting Authority.

7. ICT Audit

- 7.1. The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1. If specified by the Contracting Authority in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

Contracting Authority for Approval in accordance with the timetable and instructions specified by the Contracting Authority.

- 8.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3. The Supplier shall give as much notice as is reasonably practicable to the Contracting Authority prior to carrying out any Emergency Maintenance.
- 8.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/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 ICT Environment and the provision of the Deliverables.

9. Intellectual Property Rights in ICT

9.1. Assignments granted by the Supplier: Specially Written Software

9.1.1. The Supplier assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Contracting Authority with full guarantee (or shall procure assignment to the Contracting Authority), title to and all rights and interest in the Specially Written Software together with and including:

- 9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and
- 9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**").

9.1.2. The Supplier shall:

- 9.1.2.1. inform the Contracting Authority of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
- 9.1.2.2. deliver to the Contracting Authority the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Contracting Authority and the

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

Contracting Authority shall become the owner of such media upon receipt; and

9.1.2.3. without prejudice to paragraph 9.1.2.2, provide full details to the Contracting Authority of any of the Supplier's Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Contracting Authority and shall procure that any relevant third party licensor shall grant to the Contracting Authority a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Contracting Authority to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

9.1.3. The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Contracting Authority.

9.2. **Licences for non-COTS IPR from the Supplier and third parties to the Contracting Authority**

9.2.1. Unless the Contracting Authority gives its Approval the Supplier must not use any:

- a) of its own Existing IPR that is not COTS Software;
- b) third party software that is not COTS Software

9.2.2. Where the Contracting Authority Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grants to the Contracting Authority a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Contracting Authorities (or, if the Contracting Authority is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Call Off Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2.3. Where the Contracting Authority Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Contracting Authority on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Contracting Authority it shall:

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

- 9.2.3.1. notify the Contracting Authority in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and
- 9.2.3.2. only use such third party IPR as referred to at paragraph 9.2.3.1 if the Contracting Authority Approves the terms of the licence from the relevant third party.
- 9.2.4. Where the Supplier is unable to provide a license to the Supplier's Existing IPR in accordance with Paragraph 9.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.
- 9.2.5. The Supplier may terminate a licence granted under paragraph 9.2.1 by giving at least thirty (30) days' notice in writing if there is an Authority Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Contracting Authority written notice specifying the breach and requiring its remedy.

9.3. Licenses for COTS Software by the Supplier and third parties to the Contracting Authority

- 9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Contracting Authority on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 9.3 the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.4. The Supplier shall notify the Contracting Authority within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
 - 9.3.4.1. will no longer be maintained or supported by the developer; or
 - 9.3.4.2. will no longer be made commercially available

9.4. Contracting Authorities right to assign/novate licences

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

- 9.4.1. The Contracting Authority may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:
 - 9.4.1.1. a Central Government Body; or
 - 9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Contracting Authority.
- 9.4.2. If the Contracting Authority ceases to be a Central Government Body, the successor body to the Contracting Authority shall still be entitled to the benefit of the licences granted in paragraph 9.2.

9.5. Licence granted by the Contracting Authority

- 9.5.1. The Contracting Authority grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Contracting Authority Software and the Specially Written Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality).

9.6. Open Source Publication

- 9.6.1. Unless the Contracting Authority otherwise agrees in advance in writing (and subject to paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Supplier shall also provide the converted format to the Contracting Authority) into a format, which is:
 - 9.6.1.1. suitable for publication by the Contracting Authority as Open Source; and
 - 9.6.1.2. based on Open Standards (where applicable),

18.58.1 and the Contracting Authority may, at its sole discretion, publish the same as Open Source.

- 9.6.2. The Supplier hereby warrants that the Specially Written Software and the New IPR:
 - 9.6.2.1. are suitable for release as Open Source and that the Supplier has used reasonable endeavours when developing the same to ensure that publication by the Contracting Authority will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Contracting Authority System;

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

- 9.6.2.2. have been developed using reasonable endeavours to ensure that their publication by the Contracting Authority shall not cause any harm or damage to any party using them;
 - 9.6.2.3. do not contain any material which would bring the Contracting Authority into disrepute;
 - 9.6.2.4. can be published as Open Source without breaching the rights of any third party;
 - 9.6.2.5. will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date notified by the Contracting Authority to the Supplier; and
 - 9.6.2.6. do not contain any Malicious Software.
- 9.6.3. Where the Contracting Authority has Approved a request by the Supplier for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Existing IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source), the Supplier shall:
- 9.6.3.1. as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and
 - 9.6.3.2. include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Contracting Authorities ability to publish such other items or Deliverables as Open Source.

9.7. Malicious Software

- 9.7.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 9.7.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

Call-Off Schedule 6 (ICT Services)

Call-Off Ref:

Crown Copyright 2019

9.7.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 9.7.2 shall be borne by the Parties as follows:

9.7.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Contracting Authority when provided to the Supplier; and

9.7.3.2. by the Contracting Authority, if the Malicious Software originates from the Contracting Authority Software or the Contracting Authority Data (whilst the Contracting Authority Data was under the control of the Contracting Authority).

10. [Supplier-Furnished Terms]

10.1. Software Licence Terms

10.1.1.1. Terms for licensing of non-COTS third party software in accordance with Paragraph 9.2.3 are detailed in [insert reference to relevant Schedule].

10.1.1.2. Terms for licensing of COTS software in accordance with Paragraph 9.3 are detailed in [insert reference to relevant Schedule].

10.2. Software as a Service Terms

10.2.1.1. Additional terms for provision of a Software as a Service solution are detailed in [insert reference to relevant Schedule].

10.3. Software Support & Maintenance Terms

10.3.1.1. Additional terms for provision of Software Support & Maintenance Services are detailed in [insert reference to relevant Schedule].

Call-Off Schedule 7 (Key Supplier Staff)

18.59 1.1 The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.

18.60

18.61 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.

18.62

18.63 1.3 The Contracting Authority may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.

18.64

18.65 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:

18.66

1.4.1 requested to do so by the Contracting Authority or the Contracting Authority Approves such removal or replacement (not to be unreasonably withheld or delayed);

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

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

18.67 1.5 The Supplier shall:

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

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

1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;

1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and

- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The Contracting Authority may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Contracting Authority considers in any respect unsatisfactory. The Contracting Authority shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles

Key Role	Key Staff	Contract Details

Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

19. Definitions

18.68 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"BCDR Plan"	has the meaning given to it in Paragraph 2.2 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.3.2 of this Schedule;
"Disaster Recovery Deliverables"	the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.3.3 of this Schedule;
"Disaster Recovery System"	the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Related Supplier"	any person who provides Deliverables to the Contracting Authority which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 23.3 of this Schedule;

19. BCDR Plan

19.1 The Contracting Authority and the Supplier recognise that, where specified in Schedule 4 (Framework Management), the Authority shall have the right to enforce the Contracting Authorities rights under this Schedule.

19.2 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Contracting Authority for the Contracting Authorities written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

19.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

- 19.2.2 the recovery of the Deliverables in the event of a Disaster
- 19.3 The BCDR Plan shall be divided into three sections:
 - 19.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 19.3.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - 19.3.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").
- 19.4 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

20. General Principles of the BCDR Plan (Section 1)

- 20.1 Section 1 of the BCDR Plan shall:
 - 20.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 20.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Contracting Authority by a Related Supplier;
 - 20.1.3 contain an obligation upon the Supplier to liaise with the Contracting Authority and any Related Suppliers with respect to business continuity and disaster recovery;
 - 20.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Contracting Authority and any of its other Related Supplier in each case as notified to the Supplier by the Contracting Authority from time to time;
 - 20.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
 - 20.1.6 contain a risk analysis, including:
 - 20.1.6.1 failure or disruption scenarios and assessments of likely frequency of occurrence;
 - 20.1.6.2 identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - 20.1.6.3 identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and

Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

Call-Off Ref:

Crown Copyright 2019

- 20.1.6.4 a business impact analysis of different anticipated failures or disruptions;
 - 20.1.7 provide for documentation of processes, including business processes, and procedures;
 - 20.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Contracting Authority;
 - 20.1.9 identify the procedures for reverting to "normal service";
 - 20.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
 - 20.1.11 identify the responsibilities (if any) that the Contracting Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 20.1.12 provide for the provision of technical assistance to key contacts at the Contracting Authority as required by the Contracting Authority to inform decisions in support of the Contracting Authorities business continuity plans.
- 20.2 The BCDR Plan shall be designed so as to ensure that:
- 20.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 20.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 20.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 20.2.4 it details a process for the management of disaster recovery testing.
- 20.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 20.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

21. Business Continuity (Section 2)

- 21.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:

Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

Call-Off Ref:

Crown Copyright 2019

- 21.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 21.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 21.2 The Business Continuity Plan shall:
- 21.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 21.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 21.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 21.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

22. Disaster Recovery (Section 3)

- 22.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Contracting Authority supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 22.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 22.2.1 loss of access to the Contracting Authority Premises;
 - 22.2.2 loss of utilities to the Contracting Authority Premises;
 - 22.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 22.2.4 loss of a Subcontractor;
 - 22.2.5 emergency notification and escalation process;
 - 22.2.6 contact lists;
 - 22.2.7 staff training and awareness;
 - 22.2.8 BCDR Plan testing;
 - 22.2.9 post implementation review process;
 - 22.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed

relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;

- 22.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 22.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 22.2.13 testing and management arrangements.

23. Review and changing the BCDR Plan

23.1 The Supplier shall review the BCDR Plan:

- 23.1.1 on a regular basis and as a minimum once every six (6) Months;
- 23.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
- 23.1.3 where the Contracting Authority requests in writing any additional reviews (over and above those provided for in Paragraphs 23.1.1 and 23.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Contracting Authorities written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Contracting Authority for the Contracting Authorities approval. The costs of both Parties of any such additional reviews shall be met by the Contracting Authority except that the Supplier shall not be entitled to charge the Contracting Authority for any costs that it may incur above any estimate without the Contracting Authorities prior written approval.

23.2 Each review of the BCDR Plan pursuant to Paragraph 23.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Contracting Authority shall reasonably require.

23.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Contracting Authority a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.

- 23.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 23.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

24. Testing the BCDR Plan

- 24.1 The Supplier shall test the BCDR Plan:
- 24.1.1 regularly and in any event not less than once in every Contract Year;
 - 24.1.2 in the event of any major reconfiguration of the Deliverables
 - 24.1.3 at any time where the Contracting Authority considers it necessary (acting in its sole discretion).
- 24.2 If the Contracting Authority requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Contracting Authorities requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Contracting Authority unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 24.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Contracting Authority and shall liaise with the Contracting Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Contracting Authority.
- 24.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Contracting Authority. Copies of live test data used in any such testing shall be (if so required by the Contracting Authority) destroyed or returned to the Contracting Authority on completion of the test.
- 24.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Contracting Authority a report setting out:
- 24.5.1 the outcome of the test;
 - 24.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 24.5.3 the Supplier's proposals for remedying any such failures.

Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

Call-Off Ref:

Crown Copyright 2019

24.6 Following each test, the Supplier shall take all measures requested by the Contracting Authority to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Contracting Authority.

25. Invoking the BCDR Plan

25.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Contracting Authority promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Contracting Authority.

26. Circumstances beyond your control

26.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

Call-Off Schedule 9 (Security)

[Guidance Note: Contracting Authority to Select whether or when Part A (Short Form Security Requirements) or Part B (Long Form Security Requirements) should apply. Part B should be considered where there is a high level of risk to personal or sensitive data.]

Part A: Short Form Security Requirements

20. Definitions

26.2 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Breach of Security"	the occurrence of: <ul style="list-style-type: none">a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Contracting Authority and/or the Supplier in connection with this Contract; and/orb) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Contracting Authority and/or the Supplier in connection with this Contract, in either case as more particularly set out in the Security Policy where the Contracting Authority has required compliance therewith in accordance with paragraph 2.2;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Contracting Authority and as updated from time to time.

27. Complying with security requirements and updates to them

27.1 The Contracting Authority and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Authority shall have the right to enforce the Contracting Authorities rights under this Schedule.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 27.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Contracting Authority that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 27.3 Where the Security Policy applies the Contracting Authority shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 27.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Contracting Authority. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 27.5 Until and/or unless a change to the Charges is agreed by the Contracting Authority pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

28. Security Standards

- 28.1 The Supplier acknowledges that the Contracting Authority places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 28.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
- 28.2.1 is in accordance with the Law and this Contract;
 - 28.2.2 as a minimum demonstrates Good Industry Practice;
 - 28.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
 - 28.2.4 where specified by the Contracting Authority in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 28.3 The references to standards, guidance and policies contained or set out in Paragraph 28.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 28.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Contracting Authorities Representative of such inconsistency

immediately upon becoming aware of the same, and the Contracting Authorities Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

29. Security Management Plan

29.1 Introduction

- 29.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

29.2 Content of the Security Management Plan

- 29.2.1 The Security Management Plan shall:
- 29.2.1.1 comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
 - 29.2.1.2 identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
 - 29.2.1.3 detail the process for managing any security risks from Subcontractors and third parties authorised by the Contracting Authority with access to the Deliverables, processes associated with the provision of the Deliverables, the Contracting Authority Premises, the Sites and any ICT, Information and data (including the Contracting Authorities Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
 - 29.2.1.4 be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Contracting Authority Premises, the Sites, and any ICT, Information and data (including the Contracting Authorities Confidential Information and the Government Data) to the extent used by the Contracting Authority or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
 - 29.2.1.5 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
 - 29.2.1.6 set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and

29.2.1.7 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Contracting Authority engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

29.3 Development of the Security Management Plan

- 29.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 29.4, the Supplier shall prepare and deliver to the Contracting Authority for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 29.3.2 If the Security Management Plan submitted to the Contracting Authority in accordance with Paragraph 29.3.1, or any subsequent revision to it in accordance with Paragraph 29.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Contracting Authority and re-submit to the Contracting Authority for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Contracting Authority. If the Contracting Authority does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 29.3.3 The Contracting Authority shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 29.3.2. However a refusal by the Contracting Authority to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 29.2 shall be deemed to be reasonable.
- 29.3.4 Approval by the Contracting Authority of the Security Management Plan pursuant to Paragraph 29.3.2 or of any change to the Security Management Plan in accordance with Paragraph 29.4 shall not relieve the Supplier of its obligations under this Schedule.

29.4 Amendment of the Security Management Plan

- 29.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- 29.4.1.1 emerging changes in Good Industry Practice;

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 29.4.1.2 any change or proposed change to the Deliverables and/or associated processes;
 - 29.4.1.3 where necessary in accordance with paragraph 2.2, any change to the Security Policy;
 - 29.4.1.4 any new perceived or changed security threats; and
 - 29.4.1.5 any reasonable change in requirements requested by the Contracting Authority.
- 29.4.2 The Supplier shall provide the Contracting Authority with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Contracting Authority. The results of the review shall include, without limitation:
- 29.4.2.1 suggested improvements to the effectiveness of the Security Management Plan;
 - 29.4.2.2 updates to the risk assessments; and
 - 29.4.2.3 suggested improvements in measuring the effectiveness of controls.
- 29.4.3 Subject to Paragraph 29.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 29.4.1, a request by the Contracting Authority or otherwise) shall be subject to the Variation Procedure.
- 29.4.4 The Contracting Authority may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

30. Security breach

- 30.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 30.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 30.1, the Supplier shall:
- 30.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Contracting Authority) necessary to:
 - 30.2.1.1 minimise the extent of actual or potential harm caused by any Breach of Security;

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 30.2.1.2 remedy such Breach of Security to the extent possible and protect the integrity of the Contracting Authority and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - 30.2.1.3 prevent an equivalent breach in the future exploiting the same cause failure; and
 - 30.2.1.4 as soon as reasonably practicable provide to the Contracting Authority, where the Contracting Authority so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Contracting Authority.
- 30.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Contracting Authority.

Part B: Long Form Security Requirements

21. Definitions

30.4 In this Schedule the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

- "Breach of Security"** means the occurrence of:
- a) any unauthorised access to or use of the Goods and/or Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Contracting Authority and/or the Supplier in connection with this Contract; and/or
 - b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Contracting Authority and/or the Supplier in connection with this Contract,
- in either case as more particularly set out in the security requirements in the Security Policy where the Contracting Authority has required compliance therewith in accordance with paragraph 3.4.3 d;
- "ISMS"** the information security management system and process developed by the Supplier in accordance with Paragraph 32 (ISMS) as updated from time to time in accordance with this Schedule; and
- "Security Tests"** tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

31. Security Requirements

31.1 The Contracting Authority and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Authority shall have the right to enforce the Contracting Authorities rights under this Schedule.

31.2 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

security under which the specific requirements of this Contract will be met.

31.3 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:

31.3.1 [insert security representative of the Contracting Authority]

31.3.2 [insert security representative of the Supplier]

31.4 The Contracting Authority shall clearly articulate its high level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.

31.5 Both Parties shall provide a reasonable level of access to any members of their staff for the purposes of designing, implementing and managing security.

31.6 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Government Data and any system that could directly or indirectly have an impact on that information, and shall ensure that Government Data remains under the effective control of the Supplier at all times.

31.7 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Contracting Authority.

31.8 The Contracting Authority and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Contracting Authorities security provisions represents an unacceptable risk to the Contracting Authority requiring immediate communication and co-operation between the Parties.

32. Information Security Management System (ISMS)

32.1 The Supplier shall develop and submit to the Contracting Authority, within twenty (20) Working Days after the Start Date, an information security management system for the purposes of this Contract and shall comply with the requirements of Paragraphs 32.4 to 32.6.

32.2 The Supplier acknowledges that the Contracting Authority places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.

32.3 The Contracting Authority acknowledges that;

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 32.3.1 If the Contracting Authority has not stipulated during a Further Competition that it requires a bespoke ISMS, the ISMS provided by the Supplier may be an extant ISMS covering the Services and their implementation across the Supplier's estate; and
- 32.3.2 Where the Contracting Authority has stipulated that it requires a bespoke ISMS then the Supplier shall be required to present the ISMS for the Contracting Authorities Approval.
- 32.4 The ISMS shall:
 - 32.4.1 if the Contracting Authority has stipulated that it requires a bespoke ISMS, be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Contracting Authority Premises, the Sites, the Supplier System, the Contracting Authority System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Contracting Authorities Confidential Information and the Government Data) to the extent used by the Contracting Authority or the Supplier in connection with this Contract;
 - 32.4.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with Paragraph **Error! Reference source not found.**;
 - 32.4.3 at all times provide a level of security which:
 - 32.4.3.1 is in accordance with the Law and this Contract;
 - 32.4.3.2 complies with the Baseline Security Requirements;
 - 32.4.3.3 as a minimum demonstrates Good Industry Practice;
 - 32.4.3.4 where specified by a Contracting Authority that has undertaken a Further Competition - complies with the Security Policy and the ICT Policy;
 - 32.4.3.5 complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)
(<https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework>)
 - 32.4.3.6 takes account of guidance issued by the Centre for Protection of National Infrastructure
(<https://www.cpni.gov.uk>)
 - 32.4.3.7 complies with HMG Information Assurance Maturity Model and Assurance Framework
(<https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm>)
 - 32.4.3.8 meets any specific security threats of immediate relevance to the ISMS, the Deliverables and/or Government Data;

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 32.4.3.9 addresses issues of incompatibility with the Supplier's own organisational security policies; and
- 32.4.3.10 complies with ISO/IEC27001 and ISO/IEC27002 in accordance with Paragraph **Error! Reference source not found.**;
- 32.4.4 document the security incident management processes and incident response plans;
- 32.4.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Deliverables of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Contracting Authority approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and
- 32.4.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Contracting Authority in advance of issue of the relevant Security Management Plan).
- 32.5 Subject to Paragraph 2 the references to Standards, guidance and policies contained or set out in Paragraph 32.4 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 32.6 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in Paragraph 32.4, the Supplier shall immediately notify the Contracting Authority Representative of such inconsistency and the Contracting Authority Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.
- 32.7 If the bespoke ISMS submitted to the Contracting Authority pursuant to Paragraph 3.3.1 is Approved by the Contracting Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the ISMS is not Approved by the Contracting Authority, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Contracting Authority and re-submit it to the Contracting Authority for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission of the ISMS to the Contracting Authority. If the Contracting Authority does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

Procedure. No Approval to be given by the Contracting Authority pursuant to this Paragraph 32 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in Paragraphs 32.4 to 32.6 shall be deemed to be reasonable.

- 32.8 Approval by the Contracting Authority of the ISMS pursuant to Paragraph 32.7 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Schedule.

33. Security Management Plan

- 33.1 Within twenty (20) Working Days after the Start Date, the Supplier shall prepare and submit to the Contracting Authority for Approval in accordance with Paragraph **Error! Reference source not found.** fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of Paragraph 33.2.
- 33.2 The Security Management Plan shall:
- 33.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);
- 33.2.2 comply with the Baseline Security Requirements and, where specified by the Contracting Authority in accordance with paragraph 3.4.3 d, the Security Policy;
- 33.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
- 33.2.4 detail the process for managing any security risks from Subcontractors and third parties authorised by the Contracting Authority with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, the Contracting Authority Premises, the Sites, the Supplier System, the Contracting Authority System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Contracting Authorities Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 33.2.5 unless otherwise specified by the Contracting Authority in writing, be developed to protect all aspects of the Deliverables and all processes associated with the delivery of the Deliverables, including the Contracting Authority Premises, the Sites, the Supplier System, the Contracting Authority System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Contracting Authorities Confidential Information and the Government Data) to the extent used by the Contracting Authority or the Supplier in connection with this Contract or in connection with any system that

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- 33.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the delivery of the Deliverables and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Schedule (including the requirements set out in Paragraph 32.4);
- 33.2.7 demonstrate that the Supplier's approach to delivery of the Deliverables has minimised the Contracting Authority and Supplier effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offering from the G-Cloud catalogue);
- 33.2.8 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Start Date to those incorporated in the ISMS within the timeframe agreed between the Parties;
- 33.2.9 set out the scope of the Contracting Authority System that is under the control of the Supplier;
- 33.2.10 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 33.2.11 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Contracting Authority engaged in the Deliverables and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.
- 33.3 If the Security Management Plan submitted to the Contracting Authority pursuant to Paragraph 33.1 is Approved by the Contracting Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Contracting Authority, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Contracting Authority and re-submit it to the Contracting Authority for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission to the Contracting Authority of the Security Management Plan. If the Contracting Authority does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Contracting Authority pursuant to this Paragraph may be unreasonably withheld or delayed.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 33.2 shall be deemed to be reasonable.

- 33.4 Approval by the Contracting Authority of the Security Management Plan pursuant to Paragraph 33.3 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.

34. Amendment of the ISMS and Security Management Plan

- 34.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:

- 34.1.1 emerging changes in Good Industry Practice;
- 34.1.2 any change or proposed change to the Supplier System, the Deliverables and/or associated processes;
- 34.1.3 any new perceived or changed security threats;
- 34.1.4 where required in accordance with paragraph 3.4.3 d, any changes to the Security Policy;
- 34.1.5 any new perceived or changed security threats; and
- 34.1.6 any reasonable change in requirement requested by the Contracting Authority.

- 34.2 The Supplier shall provide the Contracting Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Contracting Authority. The results of the review shall include, without limitation:

- 34.2.1 suggested improvements to the effectiveness of the ISMS;
 - 34.2.2 updates to the risk assessments;
 - 34.2.3 proposed modifications to the procedures and controls that affect information security to respond to events that may impact on the ISMS; and
 - 34.2.4 suggested improvements in measuring the effectiveness of controls.
- 34.3 Subject to Paragraph 34.4, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to Paragraph 34.1, a Contracting Authority request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Contracting Authority.

- 34.4 The Contracting Authority may, acting reasonably, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such

changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

35. Security Testing

- 35.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Deliverables and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Contracting Authority. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 35.2 The Contracting Authority shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Contracting Authority with the results of such Security Tests (in a form approved by the Contracting Authority in advance) as soon as practicable after completion of each Security Test.
- 35.3 Without prejudice to any other right of audit or access granted to the Contracting Authority pursuant to this Contract, the Contracting Authority and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Contracting Authority may notify the Supplier of the results of such tests after completion of each such test. If any such Contracting Authorities test adversely affects the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Contracting Authorities test.
- 35.4 Where any Security Test carried out pursuant to Paragraphs 35.2 or 35.3 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Contracting Authority of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Contracting Authorities prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Contracting Authority or, otherwise, as soon

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Baseline Security Requirements) to this Schedule) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to the Contracting Authority.

- 35.5 If any repeat Security Test carried out pursuant to Paragraph 35.4 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Contract.

36. Complying with the ISMS

- 36.1 The Contracting Authority shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy where such compliance is required in accordance with paragraph 3.4.3 d.
- 36.2 If, on the basis of evidence provided by such security audits, it is the Contracting Authorities reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy are not being achieved by the Supplier, then the Contracting Authority shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time, then the Contracting Authority shall have the right to obtain an independent audit against these standards in whole or in part.
- 36.3 If, as a result of any such independent audit as described in Paragraph the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Contracting Authority in obtaining such audit.

37. Security Breach

- 37.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 37.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 37.1, the Supplier shall:
- 37.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Contracting Authority) necessary to:
- 37.2.1.1 minimise the extent of actual or potential harm caused by any Breach of Security;
 - 37.2.1.2 remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Contracting Authority Property and/or Contracting Authority Assets and/or ISMS to the extent that this is within the Supplier's control;
 - 37.2.1.3 apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Deliverables so as to meet the relevant Service Level Performance Indicators, the Supplier shall be granted relief against any resultant under-performance for such period as the Contracting Authority, acting reasonably, may specify by written notice to the Supplier;
 - 37.2.1.4 prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure; and
 - 37.2.1.5 supply any requested data to the Contracting Authority (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on the Contracting Authorities request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
 - 37.2.1.6 as soon as reasonably practicable provide to the Contracting Authority full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Contracting Authority.
- 37.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy (where relevant) or the requirements of this Schedule, then any required change to the ISMS shall be at no cost to the Contracting Authority.

38. Vulnerabilities and fixing them

- 38.1 The Contracting Authority and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Contracting Authorities information.
- 38.2 The severity of threat vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS and using the appropriate vulnerability scoring systems including:
- 38.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and
- 38.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 38.3 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as 'Critical' within 14 days of release, 'Important' within 30 days of release and all 'Other' within 60 Working Days of release, except where:
- 38.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;
- 38.3.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Contracting Authority; or
- 38.3.3 the Contracting Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.
- 38.4 The Specification and Mobilisation Plan (if applicable) shall include provisions for major version upgrades of all COTS Software to be upgraded within 6 Months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term unless:

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 38.4.1 where upgrading such COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 Months of release of the latest version; or
- 38.4.2 is agreed with the Contracting Authority in writing.
- 38.5 The Supplier shall:
 - 38.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Central Government Body;
 - 38.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
 - 38.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment by actively monitoring the threat landscape during the Contract Period;
 - 38.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 32.4.5;
 - 38.5.5 from the date specified in the Security Management Plan provide a report to the Contracting Authority within five (5) Working Days of the end of each Month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
 - 38.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
 - 38.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
 - 38.5.8 inform the Contracting Authority when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 38.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9, the Supplier shall immediately notify the Contracting Authority.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

38.7 A failure to comply with Paragraph 38.3 shall constitute a Default, and the Supplier shall comply with the Rectification Plan Process.

Part B – Annex 1: Baseline security requirements

22. Handling Classified information

38.8 The Supplier shall not handle Contracting Authority information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Contracting Authority.

39. End user devices

39.1 When Government Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the UK Government Communications Electronics Security Group ("CESG") to at least Foundation Grade, for example, under the CESG Commercial Product Assurance scheme ("CPA").

39.2 Devices used to access or manage Government Data and services must be under the management authority of Contracting Authority or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Contracting Authority. Unless otherwise agreed with the Contracting Authority in writing, all Supplier devices are expected to meet the set of security requirements set out in the End User Devices Security Guidance (<https://www.ncsc.gov.uk/guidance/end-user-device-security>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Contracting Authority and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the CESG guidance, then this should be agreed in writing on a case by case basis with the Contracting Authority.

40. Data Processing, Storage, Management and Destruction

40.1 The Supplier and Contracting Authority recognise the need for the Contracting Authorities information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Contracting Authority the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Government Data will be subject to at all times.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

40.2 The Supplier shall agree any change in location of data storage, processing and administration with the Contracting Authority in accordance with Clause 14 (Data protection).

40.3 The Supplier shall:

40.3.1 provide the Contracting Authority with all Government Data on demand in an agreed open format;

40.3.2 have documented processes to guarantee availability of Government Data in the event of the Supplier ceasing to trade;

40.3.3 securely destroy all media that has held Government Data at the end of life of that media in line with Good Industry Practice; and

40.3.4 securely erase any or all Government Data held by the Supplier when requested to do so by the Contracting Authority.

41. Ensuring secure communications

41.1 The Contracting Authority requires that any Government Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by CESG, to at least Foundation Grade, for example, under CPA.

41.2 The Contracting Authority requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

42. Security by design

42.1 The Supplier shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Government Data.

42.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a CESG Certified Professional certification (<https://www.ncsc.gov.uk/articles/cesg-certification-ia-professionals-and-guidance-certification-ia-professionals-documents>) for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

43. Security of Supplier Staff

43.1 Supplier Staff shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

- 43.2 The Supplier shall agree on a case by case basis Supplier Staff roles which require specific government clearances (such as 'SC') including system administrators with privileged access to IT systems which store or process Government Data.
- 43.3 The Supplier shall prevent Supplier Staff who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Government Data except where agreed with the Contracting Authority in writing.
- 43.4 All Supplier Staff that have the ability to access Government Data or systems holding Government Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Contracting Authority in writing, this training must be undertaken annually.
- 43.5 Where the Supplier or Subcontractors grants increased ICT privileges or access rights to Supplier Staff, those Supplier Staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

44. Restricting and monitoring access

- 44.1 The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

45. Audit

- 45.1 The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
 - 45.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Deliverables allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
 - 45.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account log-on and log-off events, the start and termination of remote access sessions, security alerts from desktops

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

and server operating systems and security alerts from third party security software.

- 45.2 The Supplier and the Contracting Authority shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 45.3 The Supplier shall retain audit records collected in compliance with this Paragraph 45 for a period of at least 6 Months.

Call-Off Schedule 9 (Security)

Call-Off Ref:

Crown Copyright 2019

Part B – Annex 2 - Security Management Plan

[]

Call-Off Schedule 10 (Exit Management)

23. Definitions

45.4 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier [or a Key Subcontractor] in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 47.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier [or a Key Subcontractor] in connection with the Deliverables but which are also used by the Supplier [or Key Subcontractor] for other purposes;
"Registers"	the register and configuration database referred to in Paragraph 46.2 of this Schedule;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Contracting Authority receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Contracting Authority internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Contracting Authority receives in substitution for any of the Services following the End Date, whether those goods are provided by the Contracting Authority internally and/or by any third party;
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

	required by the Contracting Authority pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in Paragraph 49.1 of this Schedule;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 49.2 of this Schedule;
"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Contracting Authority;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Contracting Authority or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 52.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in Paragraph 52.2.3 of this Schedule.

46. Supplier must always be prepared for contract exit

46.1 The Supplier shall within 30 days from the Start Date provide to the Contracting Authority a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

46.2 During the Contract Period, the Supplier shall promptly:

- 46.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
- 46.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables ("**Registers**").

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

46.3 The Supplier shall:

- 46.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 46.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Contracting Authority) at the request of the Contracting Authority to the Contracting Authority (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Contracting Authority and the Contracting Authority may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

46.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

47. Assisting re-competition for Deliverables

- 47.1 The Supplier shall, on reasonable notice, provide to the Contracting Authority and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Contracting Authority shall reasonably require in order to facilitate the preparation by the Contracting Authority of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 47.2 The Supplier acknowledges that the Contracting Authority may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 47.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Contracting Authority within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Contracting Authority in relation to any such changes).
- 47.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

48. Exit Plan

48.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Contracting Authority an Exit Plan which complies with the requirements set out in Paragraph 48.3 of this Schedule and is otherwise reasonably satisfactory to the Contracting Authority.

48.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 48.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

48.3 The Exit Plan shall set out, as a minimum:

- 48.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 48.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Contracting Authority;
- 48.3.3 details of any contracts which will be available for transfer to the Contracting Authority and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 48.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 48.3.5 proposals for providing the Contracting Authority or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 48.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 48.3.7 proposals for the identification and return of all Contracting Authority Property in the possession of and/or control of the Supplier or any third party;
- 48.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 48.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 48.3.10 any other information or assistance reasonably required by the Contracting Authority or a Replacement Supplier.

48.4 The Supplier shall:

- 48.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:

48.4.1.1 every **six (6) months** throughout the Contract Period; and

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

- 48.4.1.2 no later than [twenty (20) Working Days] after a request from the Contracting Authority for an up-to-date copy of the Exit Plan;
- 48.4.1.3 as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than [ten (10) Working Days] after the date of the Termination Assistance Notice;
- 48.4.1.4 as soon as reasonably possible following, and in any event no later than [twenty (20) Working Days] following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 48.4.2 jointly review and verify the Exit Plan if required by the Contracting Authority and promptly correct any identified failures.
- 48.5 Only if (by notification to the Supplier in writing) the Contracting Authority agrees with a draft Exit Plan provided by the Supplier under Paragraph 48.2 or 48.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 48.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

49. Termination Assistance

- 49.1 The Contracting Authority shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
 - 49.1.1 the nature of the Termination Assistance required; and
 - 49.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.
- 49.2 The Contracting Authority shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Contracting Authority shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 49.3 In the event that Termination Assistance is required by the Contracting Authority but at the relevant time the parties are still agreeing an update to

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Contracting Authority approved version of the Exit Plan (insofar as it still applies).

50. Termination Assistance Period

50.1 Throughout the Termination Assistance Period the Supplier shall:

- 50.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Contracting Authority, provide the Termination Assistance;
- 50.1.2 provide to the Contracting Authority and/or its Replacement Supplier any reasonable assistance and/or access requested by the Contracting Authority and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Contracting Authority and/or its Replacement Supplier;
- 50.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Contracting Authority;
- 50.1.4 subject to Paragraph 50.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
- 50.1.5 at the Contracting Authorities request and on reasonable notice, deliver up-to-date Registers to the Contracting Authority;
- 50.1.6 seek the Contracting Authorities prior written consent to access any Contracting Authority Premises from which the de-installation or removal of Supplier Assets is required.

50.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 50.1.2 without additional costs to the Contracting Authority, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

50.3 If the Supplier demonstrates to the Contracting Authorities reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

51. Obligations when the contract is terminated

51.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

51.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

51.2.1 vacate any Contracting Authority Premises;

51.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

51.2.3 provide access during normal working hours to the Contracting Authority and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

51.2.3.1 such information relating to the Deliverables as remains in the possession or control of the Supplier; and

51.2.3.2 such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Contracting Authority and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

51.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Contracting Authority to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

52. Assets, Sub-contracts and Software

52.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Contracting Authorities prior written consent:

52.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or

52.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

52.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Contracting Authority shall notify the Supplier setting out:

52.2.1 which, if any, of the Transferable Assets the Contracting Authority requires to be transferred to the Contracting Authority and/or the Replacement Supplier ("**Transferring Assets**");

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

- 52.2.2 which, if any, of:
 - 52.2.2.1 the Exclusive Assets that are not Transferable Assets; and
 - 52.2.2.2 the Non-Exclusive Assets,the Contracting Authority and/or the Replacement Supplier requires the continued use of; and
- 52.2.3 which, if any, of Transferable Contracts the Contracting Authority requires to be assigned or novated to the Contracting Authority and/or the Replacement Supplier (the "**Transferring Contracts**"),
in order for the Contracting Authority and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Contracting Authority and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.
- 52.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Contracting Authority and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 52.4 Risk in the Transferring Assets shall pass to the Contracting Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 52.5 Where the Contracting Authority and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
 - 52.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Contracting Authority and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 52.5.2 procure a suitable alternative to such assets, the Contracting Authority or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 52.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Contracting Authority and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Contracting Authority reasonably requires to effect this novation or assignment.
- 52.7 The Contracting Authority shall:
 - 52.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

Call-Off Schedule 10 (Exit Management)

Call-Off Ref:

Crown Copyright 2019

52.7.2 once a Transferring Contract is novated or assigned to the Contracting Authority and/or the Replacement Supplier, 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 the Replacement Supplier does the same.

52.8 The Supplier shall hold any Transferring Contracts on trust for the Contracting Authority until the transfer of the relevant Transferring Contract to the Contracting Authority and/or the Replacement Supplier has taken place.

52.9 The Supplier shall indemnify the Contracting Authority (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Contracting Authority (and/or Replacement Supplier) pursuant to Paragraph 52.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 52.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

53. No charges

53.1 Unless otherwise stated, the Contracting Authority shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

54. Dividing the bills

54.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Contracting Authority and/or the Replacement and the Supplier as follows:

54.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

54.1.2 the Contracting Authority or Replacement Supplier (as applicable) 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

54.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Call-Off Schedule 11 (Installation Works)

1. When this Schedule should be used

- 1.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision Deliverables requiring installation by the Supplier.

2. How things must be installed

- 2.1. Where the Supplier reasonably believes, it has completed the Installation Works it shall notify the Contracting Authority in writing. Following receipt of such notice, the Contracting Authority shall inspect the Installation Works and shall, by giving written notice to the Supplier:
 - 2.1.1. accept the Installation Works, or
 - 2.1.2. reject the Installation Works and provide reasons to the Supplier if, in the Contracting Authorities reasonable opinion, the Installation Works do not meet the requirements set out in the Call-Off Order Form (or elsewhere in this Contract).
- 2.2. If the Contracting Authority rejects the Installation Works in accordance with Paragraph 2.1.2, the Supplier shall immediately rectify or remedy any defects and if, in the Contracting Authorities reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Call-Off Order Form (or elsewhere in this Contract), the Contracting Authority may terminate this Contract for material Default.
- 2.3. The Installation Works shall be deemed to be completed when the Supplier receives a notice issued by the Contracting Authority in accordance with Paragraph 2.2.1 Notwithstanding the acceptance of any Installation Works in accordance with Paragraph 2.2), the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Call-Off Order Form (or elsewhere in this Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Contracting Authority of the Installation Works.
- 2.4. Throughout the Contract Period, the Supplier shall have at all times all licences, approvals and consents necessary to enable the Supplier and the Supplier Staff to carry out the Installation Works.

Call-Off Schedule 12 (Clustering)

24. When you should use this Schedule

54.2 This Schedule is required where various Other Contracting Authorities want to join with the Contracting Authority to efficiently contract collectively under a single Call Off Contract rather than as separate individual Contracting Authorities under separate Call Off Contracts.

55. Definitions

55.1 “**Cluster Members**” means a person named as such in the Annex A to this Schedule which shall be incorporated into the Order Form.

56. Cluster Members benefits under the Contract

56.1 The Contracting Authority has entered into this Call-Off Contract both for its own benefit and for the benefit the Cluster Members.

56.2 The Cluster Members who are to benefit under the Call-Off Contract are identified Annex 1 to this Schedule which shall be included into Order Form.

56.3 Cluster Members shall have all of the rights granted to the Contracting Authority under a Call-Off Contract. Accordingly, where the context requires in order to assure the Cluster Members rights and benefits under a Call-Off Contract, and unless the Contracting Authority otherwise specifies, references to the Contracting Authority in a Call-Off Contract (including those references to a Party which are intended to relate to the Contracting Authority) shall be deemed to include a reference to the Cluster Members.

56.4 Each of the Cluster Members will be a third party beneficiary for the purposes of the CRTPA and may enforce the relevant provisions of a Call-Off Contract pursuant to CRTPA.

56.5 The Parties to a Call-Off Contract may in accordance with its provisions vary, terminate or rescind that Call-Off Contract or any part of it, without the consent of any Cluster Member.

56.6 The enforcement rights granted to Cluster Members under Paragraph 56.4 are subject to the following provisions:

56.6.1 the Contracting Authority may enforce any provision of a Call-Off Contract on behalf of a Cluster Member;

56.6.2 any claim from a Cluster Member under the CRTPA to enforce a Call-Off Contract shall be brought by the Contracting Authority if reasonably practicable for the Contracting Authority and Cluster Member to do so; and

56.6.3 the Supplier's limits and exclusions of liability in the Call-Off Contract shall apply to any claim to enforce a Call-Off Contract made by the Contracting Authority on behalf of a Cluster Member and to any claim

Call-Off Schedule 12 (Clustering)

Call-Off Ref:

Crown Copyright 2019

to enforce a Call-Off Contract made by a Cluster Member acting on its own behalf.

56.7 Notwithstanding that Cluster Members shall each receive the same Services from the Supplier the following adjustments will apply in relation to how the Call-Off Contract will operate in relation to the Contracting Authority and Cluster Members:

- 56.7.1 Services will be provided by the Supplier to each Cluster Member and Contracting Authority separately;
- 56.7.2 the Supplier's obligation in regards to reporting will be owed to each Cluster Member and Contracting Authority separately;
- 56.7.3 the Contracting Authority and Cluster Members shall be entitled to separate invoices in respect of the provision of Deliverables;
- 56.7.4 the separate invoices will correlate to the Deliverables provided to the respective Contracting Authority and Cluster Members;
- 56.7.5 the Charges to be paid for the Deliverables shall be calculated on a per Cluster Member and Contracting Authority basis and each Cluster Member and the Contracting Authority shall be responsible for paying their respective Charges;
- 56.7.6 the Service Levels and corresponding Service Credits will be calculated in respect of each Cluster Member and Contracting Authority, and they will be reported and deducted against Charges due by each respective Cluster Member and Contracting Authority; and
- 56.7.7 such further adjustments as the Contracting Authority and each Cluster Member may notify to the Supplier from time to time.

Call-Off Schedule 12 (Clustering)

Call-Off Ref:

Crown Copyright 2019

Annex A – Cluster Members

The Deliverables shall also be provided for the benefit of the following Cluster Members:

Name of Cluster Member	Services to be provided	Duration	Special Terms
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]

Call-Off Schedule 13 (Implementation Plan and Testing)

Part A - Implementation

25. Definitions

56.8 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Delay"	a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Deliverable Item"	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
"Milestone Payment"	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
Implementation Period"	has the meaning given to it in Paragraph 7.1;

26. Agreeing and following the Implementation Plan

56.9 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan **[Insert number of days]** days after the Call-Off Contract Start Date.

56.10 The draft Implementation Plan:

56.10.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Contracting Authority may otherwise require; and

56.10.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.

56.11 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

56.12 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

56.13 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Contracting Authority on such performance.

27. Reviewing and changing the Implementation Plan

56.14 Subject to Paragraph 56.16, the Supplier shall keep the Implementation Plan under review in accordance with the Contracting Authorities instructions and ensure that it is updated on a regular basis.

56.15 The Contracting Authority shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

56.16 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.

56.17 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a material Default.

56.18

28. Security requirements before the Start Date

56.19 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Call-Off Start Date. The Supplier shall ensure that this is reflected in their Implementation Plans.

56.20 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Contracting Authorities IT systems, or any IT systems linked to the Contracting Authority, unless they have satisfied the Contracting Authorities security requirements.

56.21 The Supplier shall be responsible for providing all necessary information to the Contracting Authority to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Contracting Authorities requirements.

56.22 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Contracting Authority of any alterations and additions as they take place throughout the Call-Off Contract.

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

56.23 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Contracting Authority Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Contracting Authority, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.

56.24 If a property requires Supplier Staff or Subcontractors to be accompanied by the Contracting Authorities Authorised Representative, the Contracting Authority must be given reasonable notice of such a requirement, except in the case of emergency access.

29. What to do if there is a Delay

56.25 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:

56.25.1 notify the Contracting Authority as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;

56.25.2 include in its notification an explanation of the actual or anticipated impact of the Delay;

56.25.3 comply with the Contracting Authorities instructions in order to address the impact of the Delay or anticipated Delay; and

56.25.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

30. Compensation for a Delay

56.26 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Contracting Authority such Delay Payments (calculated as set out by the Contracting Authority in the Implementation Plan) and the following provisions shall apply:

56.26.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Contracting Authority as a result of the Supplier's failure to Achieve the corresponding Milestone;

56.26.2 Delay Payments shall be the Contracting Authorities exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:

56.26.2.1 the Contracting Authority is otherwise entitled to or does terminate this Contract pursuant to

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

Clause 10.4 (When the Authority or the Contracting Authority can end this contract); or

- 56.26.2.2 the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
- 56.26.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
- 56.26.4 no payment or other act or omission of the Contracting Authority shall in any way affect the rights of the Contracting Authority to recover the Delay Payments or be deemed to be a waiver of the right of the Contracting Authority to recover any such damages; and
- 56.26.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).

31. [Implementation Plan]

56.27 The Implementation Period will be a [six (6)] Month period.

56.28 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Call-Off Start Date or as otherwise formally agreed with the Contracting Authority. The Supplier's full service obligations shall formally be assumed on the Call-Off Start Date as set out in Order Form.

56.29 In accordance with the Implementation Plan, the Supplier shall:

56.29.1 work cooperatively and in partnership with the Contracting Authority, incumbent supplier, and other Framework Supplier(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;

56.29.2 work with the incumbent supplier and Contracting Authority to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;

56.29.3 liaise with the incumbent Supplier to enable the full completion of the Implementation Period activities; and

56.29.4 produce a Implementation Plan, to be agreed by the Contracting Authority, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.

56.30 The Implementation Plan will include detail stating:

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

56.30.1 how the Supplier will work with the incumbent Supplier and the Contracting Authority Authorised Representative to capture and load up information such as asset data ; and

56.30.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Contracting Authority, including the frequency, responsibility for and nature of communication with the Contracting Authority and end users of the Services.

56.31 In addition, the Supplier shall:

56.31.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Contracting Authority;

56.31.2 mobilise all the Services specified in the Specification within the Call-Off Contract;

56.31.3 produce an Implementation Plan report for each Contracting Authority Premises to encompass programmes that will fulfil all the Contracting Authorities obligations to landlords and other tenants:

56.31.3.1 the format of reports and programmes shall be in accordance with the Contracting Authorities requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Contracting Authorities approval; and

56.31.3.2 the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Contracting Authority, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

56.31.4 manage and report progress against the Implementation Plan;

56.31.5 construct and maintain a Implementation risk and issue register in conjunction with the Contracting Authority detailing how risks and issues will be effectively communicated to the Contracting Authority in order to mitigate them;

56.31.6 attend progress meetings (frequency of such meetings shall be as set out in the Order Form) in accordance with the Contracting Authorities requirements during the Implementation Period. Implementation meetings shall be

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

chaired by the Contracting Authority and all meeting minutes shall be kept and published by the Supplier; and

56.31.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent provider and the Supplier.]

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

56.32 Annex 1: Implementation Plan

56.33

56.34 The Implementation Plan is set out below and the Milestones to be Achieved are identified below:

Milestone	Deliverable Items	Duration	Milestone Date	Contracting Authority Responsibilities	Milestone Payments	Delay Payments
[]	[]	[]	[]	[]	[]	[]
The Milestones will be Achieved in accordance with this Call-Off Schedule 13: (Implementation Plan and Testing) For the purposes of Paragraph 56.26.2 the Delay Period Limit shall be [insert number of days] .						

Part B - Testing

32. Definitions

56.35 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Component"	any constituent parts of the Deliverables;
"Material Test Issue"	a Test Issue of Severity Level 1 or Severity Level 2;
"Satisfaction Certificate"	a certificate materially in the form of the document contained in Annex 2 issued by the Contracting Authority when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
"Severity Level"	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test Issue Management Log"	a log for the recording of Test Issues as described further in Paragraph 56.57 of this Schedule;
"Test Issue Threshold"	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
"Test Reports"	the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
"Test Strategy"	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
"Test Success Criteria"	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

"Test Witness"	any person appointed by the Contracting Authority pursuant to Paragraph 9 of this Schedule; and
"Testing Procedures"	the applicable testing procedures and Test Success Criteria set out in this Schedule.

33. How testing should work

- 56.36 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 56.37 The Supplier shall not submit any Deliverable for Testing:
- 56.37.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
 - 56.37.2 until the Contracting Authority has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
 - 56.37.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 56.38 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 56.39 Prior to the issue of a Satisfaction Certificate, the Contracting Authority shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

34. Planning for testing

- 56.40 The Supplier shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
- 56.41 The final Test Strategy shall include:
- 56.41.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 56.41.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 56.41.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

- 56.41.4 the procedure to be followed to sign off each Test;
- 56.41.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
- 56.41.6 the names and contact details of the Contracting Authority and the Supplier's Test representatives;
- 56.41.7 a high level identification of the resources required for Testing including Contracting Authority and/or third party involvement in the conduct of the Tests;
- 56.41.8 the technical environments required to support the Tests; and
- 56.41.9 the procedure for managing the configuration of the Test environments.

35. Preparing for Testing

- 56.42 The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 56.43 Each Test Plan shall include as a minimum:
 - 56.43.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
 - 56.43.2 a detailed procedure for the Tests to be carried out.
- 56.44 The Contracting Authority shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Contracting Authority in the Test Plan.

36. Passing Testing

- 56.45 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

37. How Deliverables will be tested

- 56.46 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 56.47 Each Test Specification shall include as a minimum:
 - 56.47.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

- Test data to be provided by the Contracting Authority and the extent to which it is equivalent to live operational data;
- 56.47.2 a plan to make the resources available for Testing;
- 56.47.3 Test scripts;
- 56.47.4 Test pre-requisites and the mechanism for measuring them; and
- 56.47.5 expected Test results, including:
 - 56.47.5.1 a mechanism to be used to capture and record Test results; and
 - 56.47.5.2 a method to process the Test results to establish their content.

38. Performing the tests

- 56.48 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 56.49 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 56.50 The Supplier shall notify the Contracting Authority at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Contracting Authority shall ensure that the Test Witnesses attend the Tests.
- 56.51 The Contracting Authority may raise and close Test Issues during the Test witnessing process.
- 56.52 The Supplier shall provide to the Contracting Authority in relation to each Test:
 - 56.52.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
 - 56.52.2 the final Test Report within 5 Working Days of completion of Testing.
- 56.53 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 56.53.1 an overview of the Testing conducted;
 - 56.53.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
 - 56.53.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

- 56.53.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 56.57; and
- 56.53.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 56.54 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 56.55 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Contracting Authority shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 56.56 If the Supplier successfully completes the requisite Tests, the Contracting Authority shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

39. Discovering Problems

- 56.57 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 56.58 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Contracting Authority upon request.
- 56.59 The Contracting Authority shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

40. Test witnessing

- 56.60 The Contracting Authority may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Contracting Authority, each of whom shall have appropriate skills to fulfil the role of a Test Witness.

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

- 56.61 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 56.62 The Test Witnesses:
- 56.62.1 shall actively review the Test documentation;
 - 56.62.2 will attend and engage in the performance of the Tests on behalf of the Contracting Authority so as to enable the Contracting Authority to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - 56.62.3 shall not be involved in the execution of any Test;
 - 56.62.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
 - 56.62.5 may produce and deliver their own, independent reports on Testing, which may be used by the Contracting Authority to assess whether the Tests have been Achieved;
 - 56.62.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 56.63 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

41. Auditing the quality of the test

- 56.64 The Contracting Authority or an agent or contractor appointed by the Contracting Authority may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 56.65 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 56.66 The Contracting Authority will give the Supplier at least 5 Working Days' written notice of the Contracting Authorities intention to undertake a Testing Quality Audit.
- 56.67 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Contracting Authority to enable it to carry out the Testing Quality Audit.
- 56.68 If the Testing Quality Audit gives the Contracting Authority concern in respect of the Testing Procedures or any Test, the Contracting Authority shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Contracting Authorities report.

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

56.69 In the event of an inadequate response to the written report from the Supplier, the Contracting Authority (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Contracting Authority.

42. Outcome of the testing

56.70 The Contracting Authority will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.

56.71 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Contracting Authority shall notify the Supplier and:

56.71.1 the Contracting Authority may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;

56.71.2 the Contracting Authority may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or

56.71.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Contracting Authorities other rights and remedies, such failure shall constitute a material Default.

56.72 The Contracting Authority shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

56.73 The Contracting Authority shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:

56.73.1 the issuing by the Contracting Authority of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and

56.73.2 performance by the Supplier to the reasonable satisfaction of the Contracting Authority of any other tasks identified in the Implementation Plan as associated with that Milestone.

56.74 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).

56.75 If a Milestone is not Achieved, the Contracting Authority shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.

56.76 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Contracting Authority shall issue a Satisfaction Certificate.

56.77 If there is one or more Material Test Issue(s), the Contracting Authority shall refuse to issue a Satisfaction Certificate and, without prejudice to the Contracting Authorities other rights and remedies, such failure shall constitute a material Default.

56.78 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Contracting Authority may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:

56.78.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Contracting Authority agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Contracting Authority within 10 Working Days of receipt of the Contracting Authorities report pursuant to Paragraph 56.68); and

56.78.2 where the Contracting Authority issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

43. Risk

56.79 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

56.79.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Contracting Authorities requirements for that Deliverable or Milestone; or

56.79.2 affect the Contracting Authorities right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

Annex 1: Test Issues – Severity Levels

44. Severity 1 Error

56.80 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

45. Severity 2 Error

56.81 This is an error for which, as reasonably determined by the Contracting Authority, there is no practicable workaround available, and which:

56.81.1 causes a Component to become unusable;

56.81.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or

56.81.3 has an adverse impact on any other Component(s) or any other area of the Deliverables;

46. Severity 3 Error

56.82 This is an error which:

56.82.1 causes a Component to become unusable;

56.82.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or

56.82.3 has an impact on any other Component(s) or any other area of the Deliverables;

but for which, as reasonably determined by the Contracting Authority, there is a practicable workaround available;

47. Severity 4 Error

56.83 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

48. Severity 5 Error

56.84 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Contracting Authority]

[insert Date dd/mm/yyyy]

Dear Sirs,

Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Call-Off Contract**") [insert Call-Off Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Contracting Authority name] ("**Contracting Authority**") and [insert Supplier name] ("**Supplier**") dated [insert Call-Off Start Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in the Call-Off Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

Call-Off Schedule 13: (Implementation Plan and Testing)

Call-Off Ref:

Crown Copyright 2019

acting on behalf of [insert name of Contracting Authority]

Call-Off Schedule 14 (Service Levels)

49. Definitions

56.85 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Service Credits"	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Contracting Authority in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Credit Cap"	has the meaning given to it in the Order Form;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
"Service Level Performance Measure"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
"Service Level Threshold"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

57. What happens if you don't meet the Service Levels

- 57.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 57.2 The Supplier acknowledges that any Service Level Failure shall entitle the Contracting Authority to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Contracting Authority as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 57.3 The Supplier shall send Performance Monitoring Reports to the Contracting Authority detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 57.4 A Service Credit shall be the Contracting Authority's exclusive financial remedy for a Service Level Failure except where:
- 57.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
- 57.4.2 the Service Level Failure:
- 57.4.2.1 exceeds the relevant Service Level Threshold;

Call-Off Schedule 14 (Service Levels)

Call-Off Ref:

Crown Copyright 2019

57.4.2.2 has arisen due to a Prohibited Act or wilful Default by the Supplier;

57.4.2.3 results in the corruption or loss of any Government Data; and/or

57.4.2.4 results in the Contracting Authority being required to make a compensation payment to one or more third parties; and/or

57.4.3 the Contracting Authority is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (the Authority and Contracting Authority Termination Rights).

57.5 Not more than once in each Contract Year, the Contracting Authority may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

57.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;

57.5.2 the principal purpose of the change is to reflect changes in the Contracting Authority business requirements and/or priorities or to reflect changing industry standards; and

57.5.3 there is no change to the Service Credit Cap.

58. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

58.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

58.2 the Contracting Authority shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("Compensation for Critical Service Level Failure"),

provided that the operation of this paragraph **Error! Reference source not found.** shall be without prejudice to the right of the Contracting Authority to terminate this Contract and/or to claim damages from the Supplier for material Default.

Part A: Service Levels and Service Credits

50. Service Levels

If the level of performance of the Supplier:

58.3 is likely to or fails to meet any Service Level Performance Measure; or

58.4 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Contracting Authority in writing and the Contracting Authority, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Contracting Authority and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Contracting Authority; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

59. Service Credits

59.1 The Contracting Authority shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

59.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

Annex A to Part A: Services Levels and Service Credits Table

[Guidance Note: The following are included by way of example only. Procurement-specific Service Levels should be incorporated]

Service Levels				Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	
[Accurate and timely billing of Contracting Authority	Accuracy /Timelines	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Access to Contracting Authority support	Availability	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Flexible Resource Pool Fill Rate	Percentage of role fill from Flexible Resource Pool	[as defined by the Contracting Authority]	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure

The Service Credits shall be calculated on the basis of the following formula:

[Example:

Call-Off Schedule 14 (Service Levels)

Call-Off Ref:

Crown Copyright 2019

Formula: $x\%$ (Service Level Performance Measure) - $x\%$ (actual Service Level performance)

= $x\%$ of the Charges payable to the Contracting Authority as Service Credits to be deducted from the next Invoice payable by the Contracting Authority

Worked example: 98% (e.g. Service Level Performance Measure requirement for accurate and timely billing Service Level) - 75% (e.g. actual performance achieved against this Service Level in a Service Period)

= 23% of the Charges payable to the Contracting Authority as Service Credits to be deducted from the next Invoice payable by the Contracting Authority]

Part B: Performance Monitoring

51. Performance Monitoring and Performance Review

- 59.3 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Contracting Authority with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 59.4 The Supplier shall provide the Contracting Authority with performance monitoring reports ("Performance Monitoring Reports") in accordance with the process and timescales agreed pursuant to paragraph **Error! Reference source not found.** of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
- 59.4.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 59.4.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 59.4.3 details of any Critical Service Level Failures;
 - 59.4.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 59.4.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 59.4.6 such other details as the Contracting Authority may reasonably require from time to time.
- 59.5 The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Contracting Authority of the Performance Monitoring Reports. The Performance Review Meetings shall:
- 59.5.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Contracting Authority shall reasonably require;
 - 59.5.2 be attended by the Supplier's Representative and the Contracting Authority's Representative; and
 - 59.5.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Contracting Authority's Representative and any other recipients agreed at the relevant meeting.

Call-Off Schedule 14 (Service Levels)

Call-Off Ref:

Crown Copyright 2019

- 59.6 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Contracting Authority's Representative at each meeting.
- 59.7 The Supplier shall provide to the Contracting Authority such documentation as the Contracting Authority may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

60. Satisfaction Surveys

- 60.1 The Contracting Authority may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Contracting Authority shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Call-Off Schedule 15 (Call-Off Contract Management)

1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Operational Board" the board established in accordance with paragraph 2.1 of this Schedule;

"Project Manager" the manager appointed in accordance with paragraph 2.1 of this Schedule;

2. Project Management

2.1 The Supplier and the Contracting Authority shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.

2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. Role of the Supplier Contract Manager

3.1 The Supplier's Contract Manager's shall be:

3.1.1 the primary point of contact to receive communication from the Contracting Authority and will also be the person primarily responsible for providing information to the Contracting Authority;

3.1.2 able to delegate his position to another person at the Supplier but must inform the Contracting Authority before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;

3.1.3 able to cancel any delegation and recommence the position himself; and

3.1.4 replaced only after the Contracting Authority has received notification of the proposed change.

Call-Off Schedule 15 (Call-Off Contract Management)

Call-Off Ref:

Crown Copyright 2019

- 3.2 The Contracting Authority may provide revised instructions to the Supplier's Contract Manager's in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier's Contract Manager's by the Contracting Authority does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

4. Role of the Operational Board

- 4.1 The Operational Board shall be established by the Contracting Authority for the purposes of this Contract on which the Supplier and the Contracting Authority shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Contracting Authority board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Contracting Authority and communicated to the Supplier in advance of that meeting.

5. Contract Risk Management

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Contracting Authority, processes for:
 - 5.2.1 the identification and management of risks;

Framework Ref: RM6160

Project Version: v1.0

Model Version: v3.0

Call-Off Schedule 15 (Call-Off Contract Management)

Call-Off Ref:

Crown Copyright 2019

- 5.2.2 the identification and management of issues; and
- 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Contracting Authority to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Call Off Contract which the Contracting Authority's and the Supplier have identified.

Call-Off Schedule 15 (Call-Off Contract Management)

Call-Off Ref:

Crown Copyright 2019

Annex: Contract Boards

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

[**Guidance note:** Details of additional boards to be inserted.]

Call-Off Schedule 16 (Benchmarking)

52. DEFINITIONS

60.2 In this Schedule, the following expressions shall have the following meanings:

"Benchmark Review"	a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value;
"Benchmarked Deliverables"	any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule;
"Comparable Rates"	the Charges for Comparable Deliverables;
"Comparable Deliverables"	deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark;
"Comparison Group"	a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations;
"Equivalent Data"	data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;
"Good Value"	that the Benchmarked Rates are within the Upper Quartile; and
"Upper Quartile"	in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables.

Call-Off Schedule 16 (Benchmarking)

Call-Off Ref:

Crown Copyright 2019

61. When you should use this Schedule

61.1 The Supplier acknowledges that the Contracting Authority wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.

61.2 This Schedule sets to ensure the Contracts represent value for money throughout and that the Contracting Authority may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraphs 3 of this Schedule.

61.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

62. Benchmarking

62.1 How benchmarking works

62.1.1 The Contracting Authority and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Contracting Authority may give the Authority the right to enforce the Contracting Authority's rights under this Schedule.

62.1.2 The Contracting Authority may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.

62.1.3 The Contracting Authority shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Contract Commencement Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.

62.1.4 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.

62.1.5 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Contracting Authority in writing.

62.1.6 Upon its request for a Benchmark Review, the Contracting Authority shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days, unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Contracting Authority may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review, then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.

62.1.7 The cost of a benchmarker shall be borne by the Contracting Authority (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions

Call-Off Schedule 16 (Benchmarking)

Call-Off Ref:

Crown Copyright 2019

as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Contracting Authority.

62.2 Benchmarking Process

62.2.1 The benchmarker shall produce and send to the Contracting Authority, for Approval, a draft plan for the Benchmark Review which must include:

62.2.1.1 a proposed cost and timetable for the Benchmark Review;

62.2.1.2 a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and

62.2.1.3 a description of how the benchmarker will scope and identify the Comparison Group.

62.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.

62.2.3 The Contracting Authority must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.

62.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.

62.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:

62.2.5.1 finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's professional judgment using:

62.2.5.1.1 market intelligence;

62.2.5.1.2 the benchmarker's own data and experience;

62.2.5.1.3 relevant published information; and

62.2.5.1.4 pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;

62.2.5.2 by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;

Call-Off Schedule 16 (Benchmarking)

Call-Off Ref:

Crown Copyright 2019

- 62.2.5.3 using the Equivalent Data, calculate the Upper Quartile;
- 62.2.5.4 determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 62.2.6 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
- 62.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
 - 62.2.7.1 the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
 - 62.2.7.2 exchange rates;
 - 62.2.7.3 any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

62.3 Benchmarking Report

- 62.3.1 For the purposes of this Schedule "**Benchmarking Report**" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;
- 62.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Contracting Authority, at the time specified in the plan Approved pursuant to Paragraph 62.2.3, setting out its findings. Those findings shall be required to:
 - 62.3.2.1 include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
 - 62.3.2.2 if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
 - 62.3.2.3 include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
- 62.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Contracting Authority in accordance with Clause 24 (Changing the contract).

Call-Off Schedule 17 (MOD Terms)

1 Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"MOD Terms and Conditions"	the terms and conditions listed in this Schedule;
"MOD Site"	shall include any of Her Majesty's Ships or Vessels and Service Stations;
"Officer in charge"	shall include Officers Commanding Service Stations, Ships' Masters or Senior Officers, and Officers superintending Government Establishments;

2 Access to MOD sites

- 2.1 The Contracting Authority shall issue passes for those representatives of the Supplier who are approved for admission to the MOD Site and a representative shall not be admitted unless in possession of such a pass. Passes shall remain the property of the Contracting Authority and shall be surrendered on demand or on completion of the supply of the Deliverables.
- 2.2 The Supplier's representatives when employed within the boundaries of a MOD Site, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force for the time being for the conduct of staff at that MOD Site. When on board ship, compliance shall be with the Ship's Regulations as interpreted by the Officer in charge. Details of such rules, regulations and requirements shall be provided, on request, by the Officer in charge.
- 2.3 The Supplier shall be responsible for the living accommodation and maintenance of its representatives while they are employed at a MOD Site. Sleeping accommodation and messing facilities, if required, may be provided by the Contracting Authority wherever possible, at the discretion of the Officer in charge, at a cost fixed in accordance with current Ministry of Defence regulations. At MOD Sites overseas, accommodation and messing facilities, if required, shall be provided wherever possible. The status to be accorded to the Supplier's staff for messing purposes shall be at the discretion of the Officer in charge who shall, wherever possible give his decision before the commencement of this Contract where so asked by the Supplier. When sleeping accommodation and messing facilities are not available, a certificate to this effect may be required by the Contracting Authority and shall be obtained by the Supplier from the Officer in charge. Such certificate shall be presented to the Contracting Authority with other evidence relating to the costs of this Contract.

Call-Off Schedule 17 (MOD Terms)

Call-Off Ref:

Crown Copyright 2019

- 2.4 Where the Supplier's representatives are required by this Contract to join or visit a Site overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) shall be provided for them free of charge by the Ministry of Defence whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The Supplier shall make such arrangements through the Technical Branch named for this purpose in the Contracting Authority Contract Details. When such transport is not available within a reasonable time, or in circumstances where the Supplier wishes its representatives to accompany material for installation which it is to arrange to be delivered, the Supplier shall make its own transport arrangements. The Contracting Authority shall reimburse the Supplier's reasonable costs for such transport of its representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the Supplier's representatives locally overseas which is necessary for the purpose of this Contract shall be provided wherever possible by the Ministry of Defence, or by the Officer in charge and, where so provided, shall be free of charge.
- 2.5 Out-patient medical treatment given to the Supplier's representatives by a Service Medical Officer or other Government Medical Officer at a Site overseas shall be free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Site and transportation of the Supplier's representatives back to the United Kingdom, or elsewhere, for medical reasons, shall be charged to the Supplier at rates fixed in accordance with current Ministry of Defence regulations.
- 2.6 Accidents to the Supplier's representatives which ordinarily require to be reported in accordance with Health and Safety at Work etc. Act 1974, shall be reported to the Officer in charge so that the Inspector of Factories may be informed.
- 2.7 No assistance from public funds, and no messing facilities, accommodation or transport overseas shall be provided for dependants or members of the families of the Supplier's representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current Ministry of Defence rates.
- 2.8 The Supplier shall, wherever possible, arrange for funds to be provided to its representatives overseas through normal banking channels (e.g. by travellers' cheques). If banking or other suitable facilities are not available, the Contracting Authority shall, upon request by the Supplier and subject to any limitation required by the Supplier, make arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made at the Site to which the Supplier's representatives are attached. All such advances made by the Contracting Authority shall be recovered from the Supplier

Call-Off Schedule 17 (MOD Terms)

Call-Off Ref:

Crown Copyright 2019

3 DEFCONS and DEFFORMS

- 3.1 The DEFCONS and DEFORMS listed in Annex 1 to this Schedule are incorporated into this Contract.
- 3.2 In the event of a conflict between any DEFCONS and DEFFORMS listed in the Order Form and the other terms in a Call Off Contract, the DEFCONS and DEFFORMS shall prevail.

Call-Off Schedule 17 (MOD Terms)

Call-Off Ref:

Crown Copyright 2019

ANNEX 1 - DEFCONS & DEFFORMS

The full text of Defence Conditions (DEFCONS) and Defence Forms (DEFFORMS) are available electronically via <https://www.gov.uk/acquisition-operating-framework>.

The following MOD DEFCONS and DEFFORMs form part of this contract:

DEFCONS

DEFCON No	Version	Description

DEFFORMs (Ministry of Defence Forms)

DEFFORM No	Version	Description

Call-Off Schedule 18 (Background Checks)

53. When you should use this Schedule

This Schedule should be used where Supplier Staff must be vetted before working on Contract.

63. Definitions

“Relevant Conviction” means any conviction listed in Annex 1 to this Schedule.

64. Relevant Convictions

64.1.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

64.1.2 Notwithstanding Paragraph 2.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Contracting Authority owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

64.1.2.1 carry out a check with the records held by the Department for Education (DfE);

64.1.2.2 conduct thorough questioning regarding any Relevant Convictions; and

64.1.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

Call-Off Schedule 18 (Background Checks)

Call-Off Ref:

Crown Copyright 2019

Annex 1 – Relevant Convictions

[Insert Relevant Convictions here]

Call-Off Schedule 19 (Scottish Law)

54. When you should use this Schedule

64.2 This Call-Off Schedule 19 may be included to adapt the Core Terms and Schedules so that the Call Off Contract is under Scottish Law.

65. Changes to the Core Terms

65.1 Clause 19, (Other people's rights in this contract) – "Contract Rights of Third Parties Act (CRTPA)" shall be replaced by "Contract (Third Party Rights) (Scotland) Act 2017 (CTPRSA)". References to "CRTPA" shall be replaced by "CTPRSA".

65.2 Clause 34 (Resolving Disputes):

65.2.1 Clause 34.2 – add the following wording: "The governing law and jurisdiction provisions of CEDR's Model Mediation Agreement shall be deemed to be amended to refer to the laws of Scotland and the Court of Session."

65.2.2 Clause 34.3 The term "Courts of England and Wales" shall be amended to read "*Court of Session*"

65.2.3 Clause 34.4 – Conduct of Arbitration.

65.2.3.1 The words "*under the London Court of International Arbitration rules current at the time of the Dispute*" shall be deleted.

65.2.3.2 The seat or legal place of the arbitration shall be amended so that it takes place in "*Edinburgh*" as opposed to "*London*".

65.2.3.3 Add the following wording "*The arbitration shall be conducted in accordance with the Arbitration (Scotland) Act 2010 subject to disapplication in whole or in part of any of the default rules of the Scottish Arbitration Rules comprising Schedule 1 to that Act as the Parties may agree.*"

65.3 Clause 35 (Which Laws apply) – the words "*English Law*" shall be replaced by "*the Law of Scotland*".

66. Changes to the Joint Schedules

66.1 Joint Schedule 1 – Definitions shall be amended as follows:

66.1.1 The definition of "CRTPA" shall be replaced by ""CTPRSA" the Contract (Third Party Rights) (Scotland) Act 2017".

66.1.2 In the definition of "Dispute" the reference to "*English law*" shall be replaced by "*the Law of Scotland*" and the reference to the "*English courts*" shall be replaced by the "*courts of Scotland*".

66.1.3 In the definition of "Insolvency Event" – the word "*Assignment*" replaced by "*Assignment*".

Call-Off Schedule 19 (Scottish Law)

Call-Off Ref:

Crown Copyright 2019

- 66.1.4 In the definition of “Losses” the word “*tort*” shall be replaced with “*delict*”.
- 66.1.5 In part (a) of the definition of “Intellectual Property Rights” the words “*Know-How*” and “*trade secrets*” refer to pre-existing know-how and trade secrets only.
- 66.1.6 “Working Day”: reference to “England and Wales” replaced by “Scotland”
- 66.2 Where a Call-Off Guarantee is selected, the following provisions of Joint Schedule 8 – Guarantee shall be amended as follows:
- 66.2.1 Annex 1 – Form of Guarantee WHEREAS (B) “deed” replaced by “contract”
- 66.2.2 Throughout the whole Schedule delete all references to “deed of Guarantee” merely express as “Guarantee”
- 66.2.3 Clause 4.1 Delete references to “England and Wales” when referring to addresses.
- 66.2.4 Clause 12 – the word “*assignment*” shall be amended to “*assignation*”.
- 66.2.5 Clause 14 – “*Contract (Rights of Third Parties) Act 1999*” shall be amended to “*Contract (Third Party Rights) (Scotland) Act 2017*”.
- 66.2.6 Clause 16 Governing Law (add “and Jurisdiction”). References to “*Courts of England*” to be replaced by “*Court of Session*”. References to “*English*” to be replaced by “*Scottish*”. References to “*England and Wales*” to be replaced by “*Scotland*”.
- 66.2.7 Alter execution strip to read as follows:

“IN WITNESS WHEREOF THESE PRESENTS CONSISTING OF THIS PAGE AND THE [] PRECEDING PAGES ARE EXECUTED IN DUPLICATE AS FOLLOWS:

SIGNATURE:

NAME:

POSITION:

PLACE OF SIGNING:

DATE:

WITNESS:

WITNESS NAME:

WITNESS ADDRESS:”

Call-Off Schedule 19 (Scottish Law)

Call-Off Ref:

Crown Copyright 2019

67. Changes to Call-Off Schedules

[Contracting Authority Guidance Insert any amendments to the Call-Off schedules where Scottish Law applies]

68. References to Legislation

Where legislation applicable to England and Wales only is expressly mentioned in this Call Off Contract it shall have the effect of substituting the equivalent legislation applicable in Scotland.

Call-Off Schedule 20 (Call-Off Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Contracting Authorities under this Call-Off Contract

[Insert the Specification]

Call-Off Schedule 21 (Northern Ireland Law)

1. When you should use this Schedule

- 1.1. This Call-Off Schedule 21 may be included to adapt the Core Terms and Schedules so that the Call-Off Contract is under Northern Ireland Law.

2. Changes to the Core Terms

2.1 Clause 34 (Resolving Disputes):

2.1.1 Clause 34.2: substitute the following wording: “If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Dispute Resolution Service of Northern Ireland (DRS) Code of Practice current time at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by DRS. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5”.

2.1.2 Clause 34.3: the term “Courts of England and Wales” shall be amended to read “Courts of Northern Ireland”.

2.1.3 Clause 34.4: the seat or legal place of the arbitration shall be amended, so that it takes place in Belfast as opposed to London.

- 2.2 Clause 35 (Which Laws apply): the term “English Law” shall be replaced with “the Law of Northern Ireland”.

3. Changes to the Joint Schedules

3.1 Joint Schedule 1 - Definitions

3.1.1. “Insolvency Event”: any reference to a Part or section of the Insolvency Act 1986 shall be deemed to include an alternative reference, if applicable, to the equivalent Part or section of the Insolvency (Northern Ireland) Order 1989.

3.1.2 “Working Day”: reference to “England and Wales” replaced by “Northern Ireland”

3.2 Joint Schedule 5 - Corporate Social Responsibility

3.2.1 Clause 1.1: substitute the following wording: “NOT USED”.

3.2.2 Clause 1.2: substitute the following wording: “NOT USED”.

3.2.3 Clause 2.1: substitute the following wording: “In addition to applicable equality and anti-discrimination legal obligations in Northern Ireland, the

Call-Off Schedule 21 (Northern Ireland Law)

Call-Off Ref:

Crown Copyright 2019

Supplier shall support the Authority and the Contracting Authority in fulfilling its obligations to promote equality of treatment under Section 75 of the Northern Ireland Act 1998.”

3.3 Joint Schedule 8 - Guarantee

3.3.1 Clause 4.1: Delete references to “England and Wales” when referring to addresses.

3.3.2 Clause 16: change title to “Governing Law and Jurisdiction”; references to “Courts of England” to be replaced by “Courts of Northern Ireland”, references to “English law” to be replaced by the “the laws of Northern Ireland”.

4. Changes to the Call-Off Schedules

4.1 Call-Off Schedule 1 (Transparency Reports)

4.1.1 If this Call-Off Schedule 21 (Northern Ireland Law) is included in any Call-Off Contract then Call-Off Schedule 1 (Transparency Reports) is excluded from that Call-Off Contract and does not apply to that Call-Off Contract.

4.2 Call-Off Schedule 18 (Background Checks)

4.2.1 Clause 3.1.2: substitute the following wording: “Notwithstanding Paragraph 2.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Contracting Authority owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must) conduct an “Enhanced” Access NI Check and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.”

Framework Ref: RM6160

Project Version:
v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

1. Introduction

1.1 The Contracting Authority has decided to lease Equipment under the Framework Contract using Framework Schedule 7 (Call-Off Award Procedure) and has stated its requirement using Framework Schedule 6 (Order Form Template and Call-Off Schedules) including specified Joint Schedules and Call-Off Schedules, this Call-Off Schedule 22 (Lease Terms), the Core Terms and each Equipment Order Form.

2. Definitions

2.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Actual Delivery Date"	the date on which a piece of Equipment is actually delivered to the Contracting Authority;
"Additional Charges"	the amounts so specified in the Call-Off Schedule 5 (Pricing Details) or an Equipment Order;
"Delivery Place"	the place for delivery specified in the Equipment Order;
"Deposit"	the deposit amount set out in the Equipment Order;
"Due Delivery Date"	the date specified as the due date for delivery of a piece of Equipment in the Equipment Order;
"Equipment"	those devices, machines, tools and/or vehicles set out in Framework Schedule 1 - Specification and ordered by the Contracting Authority as may be supplemented in the Call-Off Contract or in an Equipment Order;
"Equipment Order"	the agreement specifying the piece of Equipment or the pieces of Equipment that the Contracting Authority will hire from the Supplier under the Call-Off Contract which will be in the form prescribed by the Contracting Authority or in an equivalent form as agreed by the Parties from time to time;
"Equipment Specific Maintenance"	(a) topping up between routine maintenance visits of consumables; (b) repairs outside of normal routine maintenance but excluding costs occasioned by wilful damage, neglect, accident damage or top ups of consumables between routine maintenance visits; and (c) replacements of any components which wear out due to fair wear and tear during the Lease Period, except where such replacement is occasioned by the lack of care or abuse of the piece of Equipment by

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

	the Contracting Authority;
"Excess"	has the same meaning given to it in Clause 8.9.1;
"Lease Payments"	the Deposit, Rentals and Additional Charges (exclusive of any applicable VAT) payable to the Owner by the Contracting Authority under the Call-Off Contract for the full and proper performance by the Supplier of its obligations under the Call-Off Contract which price must not be greater than the prices provided for in the Framework Contract from time to time;
"Lease Period"	in relation to a piece of Equipment, the period commencing on the Actual Delivery Date for that piece of Equipment and ending on the Return Date for that piece of Equipment unless extended or terminated early in accordance with this Call-Off Contract;
"Lease Terms"	the terms and conditions of supply and lease set out in this Call-Off Schedule 22;
"Net Book Value"	the value of a piece of Equipment from time to time being its purchase price less an amount equal to the depreciation of the piece of Equipment, calculated on a straight-line basis, at the time a valuation is made;
"Owner"	the person who has title to the Equipment and who is listed as the Owner in the Equipment Order;
"Purchase Option"	the Contracting Authorities option to purchase the Equipment as more fully described in paragraph 9;
"Purchase Option Price"	the price of the Purchase Option set out in the Equipment Order;
"Rental"	the amount specified in the Equipment Order;
"Return Date"	the date so specified in the Equipment Order or as varied by the application of paragraph 5.5;
"Termination Sum"	for any piece of Equipment, the aggregate of: a) any Rentals due but unpaid up to the date of termination; b) any other sum due or to become due to the Supplier hereunder by reason of any breach by the

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Contracting Authority prior to the date of termination of any of its obligations under the Lease Terms; and

c) the termination rental charges calculated in accordance with the Call-Off Contract or, if lower, 50% of the Rentals that would have been payable under the Lease Terms but for the termination; and

"Total Loss"

any event which, in the opinion of the insurers of the piece of Equipment, renders the piece of Equipment incapable of economic repair if it is lost, stolen or destroyed.

3. Exclusion of certain Core Terms

3.1 When the Parties have entered into a Call-Off Contract which incorporates the Lease Terms, the following Core Terms are modified in respect of the Call-Off Contract (but are not modified in respect of the Framework Contract):

1.1 3.1.1 Clause 3.1.2 does not apply to the Call-Off Contract;

1.2 3.1.2 Clause 3.2 does not apply to the Call-Off Contract;

1.3 3.1.3 Clause 8.7 does not apply to the Call-Off Contract;

1.4 3.1.4 Clause 10.2 does not apply to the Contracting Authority extending the Lease Period of any Equipment;

3.1.5 Clause 10.3.2 does not apply to the Contracting Authority terminating the hire of any Equipment; and

3.1.6 Clause 11.3 does not apply where the Contracting Authority must pay a Settlement Sum, a Termination Sum or any amount under paragraph 11.

4 Equipment Orders

4.1 Each Equipment Order is subject to and incorporates the Lease Terms so that no other terms and conditions which the Supplier tries to impose under any quotation, confirmation of order, delivery note, invoice or similar document are part of the Call-Off Contract.

4.2 The Parties agree that any other terms or conditions (whether or not inconsistent with the terms of this Call-Off Contract) contained or referred to in any correspondence or any documentation submitted by the Supplier which is not part of the Framework Contract or which are elsewhere implied by custom, practice or course of dealing do not apply.

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

- 4.3 The Supplier must send a confirmation of the Equipment Order to the Contracting Authority by electronic means (or in any other method as the Parties may agree from time to time) within [forty-eight (48)] hours of receipt of the Equipment Order and the confirmation will confirm the order details including:
- 4.4.1 a description of the piece of Equipment ordered;
 - 4.4.2 details of any optional extras ordered and any conversion work to be carried out;
 - 4.4.3 the anticipated delivery details; and
 - 4.4.4 the name and address of the Supplier.
- 4.5 For the avoidance of doubt, each Equipment Order survives the expiration or termination of the Framework Contract.

5 Hiring Equipment

Lease

- 5.1 In consideration of the payment of the Lease Payments, the Supplier will hire the Equipment to the Contracting Authority in a timely manner and in accordance the Call-Off Contract and the requirements notified to the Supplier in the Equipment Order.
- 5.2 The Deposit is a deposit against default by the Contracting Authority of payment of any Lease Payments or any loss of or damage caused to the Equipment. The Contracting Authority must, on the Actual Delivery Date, pay the Deposit to the Supplier. If the Contracting Authority fails [without due cause] to make any Lease Payments in accordance with the Equipment Order, or causes any loss or damage to the Equipment (in whole or in part), the Supplier can apply the Deposit against that default, loss or damage. The Contracting Authority must pay to the Supplier any sums deducted from the Deposit within ten (10) Working Days of a demand for the same. The Supplier must refund the Deposit (or balance of the Deposit) within [five (5)] Working Days after the end of the Lease Period.
- 5.3 The Supplier must advise the Contracting Authority on the selection and specification of the Equipment and, where applicable, any conversion work to be carried out in respect of them so as to ensure that the Equipment will be of sufficient quality and suitable for the requirements of the Contracting Authority.
- 5.4 Before the Due Delivery Date of any piece of Equipment the Contracting Authority can amend or cancel and remove that piece of Equipment from

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

the Equipment Order by notifying the Supplier. If the Contracting Authority does cancel all or part of an Equipment Order:

- 5.4.1 for standard specification pieces of Equipment, the Contracting Authority can cancel any Equipment Order or part of any Equipment Order which has not been delivered. The Contracting Authority will pay the Supplier's reasonable and proven costs already incurred on the cancelled Equipment Order as long as the Supplier takes all reasonable steps to minimise these costs, including an attempt to redeploy the ordered Equipment to an alternative customer. [Where the Equipment is a vehicle, cancellation terms for converted vehicles or vehicles above 3.5 tonnes should be agreed by the Contracting Authority and Supplier prior to award of the Call-Off Contract];
 - 5.4.2 in all other circumstances (including where the Equipment is not standard specification or less than thirty (30) days' notice is given), the Supplier will take all reasonable steps to allocate the piece of Equipment to an alternative Contracting Authority. If the Supplier is unable to re-allocate the piece of Equipment, the Contracting Authority must pay the Supplier any cancellation charges reasonably, properly and proven to be incurred by the Supplier provided that the Supplier can prove to the reasonable satisfaction of the Contracting Authority that the Supplier has taken all reasonable efforts to minimise such charges; and
 - 5.4.3 where the amendment or cancellation of an Equipment Order is directly or indirectly due to the Supplier's failure to comply with its obligations under the Call-Off Contract, the Contracting Authority has no liability to the Supplier in respect of the amendment or cancellation.
- 5.5 If the Contracting Authority wants to keep any piece of Equipment after the expiry of the current Lease Period then the Contracting Authority must give written notice to the Supplier [1 Month] prior to the end of the Lease Period and the Supplier must confirm its agreement (which the Supplier cannot unreasonably refuse). The Rentals payable in relation to any extensions of a Lease Period are (unless otherwise agreed between the Parties) calculated:
- 5.5.1 where the extension is for twenty-eight (28) days or less, proportionately based on the original Rental for the piece of Equipment and the Parties shall agree (such agreement not to be unreasonably withheld or delayed) the revised Agreement Mileage for that vehicle as soon as reasonably practicable; or

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

5.5.2 where the extension is for more than **twenty-eight (28)** days, using the same method that was used to calculate the original Rentals.

Delivery and Installation

5.6 The Supplier must give the Contracting Authority confirmation of the anticipated Due Delivery Date for each piece of Equipment within **five (5)** Working Days of receipt of the Equipment Order.

5.7 The Supplier will deliver the Equipment to the Delivery Place or as otherwise reasonably directed by the Contracting Authority.

5.8 If the Contracting Authority has specified that the Supplier must install the Equipment at the Delivery Place, the Supplier must at the Contracting Authorities expense install the Equipment at the Delivery Place. The Contracting Authority must make sure that a duly authorised representative of the Contracting Authority is present at the installation of the Equipment.

5.9 The Supplier will, at the Supplier's cost, deliver the Equipment to the Contracting Authority in a good working and clean condition on the Due Delivery Date.

5.10 [If the Equipment is a vehicle, on delivery, the mileage of each piece of Equipment must not exceed one hundred (100) miles unless, due to the nature of the piece of Equipment, it is impractical to do so in which event the Supplier must minimise the delivery mileage and the Supplier must ensure that any delivery mileage is deducted for the purposes of calculating any Excess/under Mileage. On delivery, each piece of Equipment must contain not less than a quarter a tank of fuel.]

5.11 The Supplier can only deliver Equipment before the Due Delivery Date if the Contracting Authority agrees to early delivery before the Supplier attempts delivery.

5.12 Any defects to a piece of Equipment notified to the Supplier by the Contracting Authority must be rectified within **fourteen (14) days** at no cost to the Contracting Authority.

5.13 A piece of Equipment is only delivered once a duly authorised representative of the Contracting Authority signs a delivery note (which quotes the Supplier's order number and full details of the piece of Equipment) to confirm delivery of the Equipment but that signature is not evidence that the Equipment complies with the requirements of the Equipment Order.

5.14 If, for any reason, the Contracting Authority is unable to take delivery of a piece of Equipment on or after the Due Delivery Date the Supplier

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

must, at its own expense, store or arrange for the storage of the Equipment for a reasonable time and must safeguard the Equipment until actual delivery.

- 5.15 The Supplier must make sure (at its own cost) that each piece of Equipment is delivered in a new and unused condition unless the Contracting Authority requests otherwise. The Contracting Authority can at its sole discretion reject a piece of Equipment which is not in the condition requested and/or in respect of which the delivery note does not include the required information.
- 5.16 If the Supplier does not deliver a piece of Equipment by the agreed time or specified date then the Contracting Authority can withhold payment of the Lease Payments for that piece of Equipment until the time when the Supplier actually delivers it.
- 5.17 If the Supplier becomes aware that a piece of Equipment cannot be delivered by the agreed Due Delivery Date or if a piece of Equipment is not actually delivered by its Due Delivery Date, the Supplier shall inform the Contracting Authority of the revised delivery date. Where the Contracting Authority has indicated that the timing of delivery is critical, the Supplier must provide an alternative piece of Equipment of the same specification or one with equivalent specification by the Due Delivery Date until the time as the piece of Equipment is actually delivered. If the Supplier cannot supply an alternative piece of Equipment by the Due Delivery Date, the Supplier must meet and promptly refund to the Contracting Authority all and any additional costs incurred by the Contracting Authority for provision of a piece of Equipment of the same specification or one with equivalent specification.
- 5.18 To facilitate delivery and, if applicable, installation, the Contracting Authority must provide all requisite materials, facilities, access and suitable working conditions to enable delivery and, if applicable, installation to be carried out safely and efficiently.

6 Title, Possession And Risk

- 6.1 The Equipment is the property of the Owner at all time and the Contracting Authority will not have any right, title or interest in or to the Equipment apart from the right to possess and use the Equipment in accordance with the Call-Off Contract.
- 6.2 The Contracting Authority accepts a piece of Equipment by signing a delivery form and the Lease Period for that piece of Equipment starts unless the Contracting Authority notifies the Supplier that the piece of Equipment is not in accordance with the agreed specification or otherwise not in conformity with the requirements of the Equipment

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Order by telephone and confirmed in writing, email or facsimile within **seventy-two (72)** hours of delivery.

- 6.3 Once the Contracting Authority notifies the Supplier of non-acceptance, the Parties will agree a course of action to take.
- 6.4 Except where non-acceptance is due to default of the Contracting Authority, in the event of non-acceptance the Supplier will, at its own expense make an equivalent alternative piece of Equipment available for use by the Contracting Authority until the time that the Supplier actually delivers an acceptable piece of Equipment to the Contracting Authority. If non-acceptance is due to the default of the Contracting Authority, the Contracting Authority can cancel the part of the Equipment Order relating to that piece of Equipment but must pay reasonable cancellation charges to the Supplier.
- 6.5 From the time of acceptance of a piece of Equipment, the Contracting Authority bears the risk of loss or damage to the Equipment however caused and whether insured or not, provided that the Contracting Authority does not bear the risk of loss or damage:
- 6.5.1 caused by the negligence of the Supplier, its Subcontractors or its agents; or
- 6.5.2 while the Supplier has possession of the Equipment, including for any maintenance.
- 6.6 The Supplier must give, and must make sure that the Owner gives, the Contracting Authority quiet possession of the Equipment and the Supplier warrants that the Contracting Authority can peaceably hold the Equipment throughout the Lease Period free of any interference from the Supplier, the Owner or any person acting through the Supplier.

7 Supplier's Obligations

Warranty

- 7.1 The Supplier warrants that the Equipment substantially conforms to its specification (as made available by the Supplier), be of satisfactory quality and fit for any purpose held out by the Supplier.
- 7.2 The Supplier must use all reasonable endeavours to remedy, free of charge, any material defect in the Equipment which manifests itself within **[twelve (12)]** Months from the Actual Delivery Date, provided that:
- 7.2.1 the Contracting Authority notifies the Supplier of any defect in writing within **[ten (10)]** Working Days of the defect occurring **[or of becoming aware of the defect]**;

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

- 7.2.2 the Contracting Authority permits the Supplier to make a full examination of the alleged defect;
 - 7.2.3 the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than the Supplier's authorised personnel;
 - 7.2.4 the defect did not arise out of any information, design or any other assistance supplied or furnished by the Contracting Authority or on its behalf; and
 - 7.2.5 the defect is directly attributable to defective material, workmanship or design.
- 7.3 To the extent that the Equipment comprises or contains equipment or components which were not manufactured or produced by the Supplier, the Contracting Authority is only entitled to any warranty or other benefit that the Supplier has received from the manufacturer.
- 7.4 The Supplier must transfer to the Contracting Authority, so far as is possible, the benefits of any manufacturers' warranties relating to the fitness and performance of the Equipment.
- 7.5 If the Supplier does not remedy any material defect in the Equipment in accordance with Clause 7.2, the Supplier must, at the Contracting Authorities request, accept the return of part or all of the Equipment and make an appropriate reduction to the Rentals payable during the remaining term of the agreement and, if relevant, return any Deposit (or any part of it).

Maintenance

- 7.6 Where the Contracting Authority selects the maintenance option in the Equipment Order, the Supplier is responsible for the costs of:
- 7.6.1 normal routine maintenance in accordance with manufacturers' maintenance recommendations as amended from time to time; and
 - 7.6.2 any Equipment Specific Maintenance, provided that the costs have been duly authorised by the Supplier and a service outlet approved by the Supplier carries out the maintenance.
- 7.7 If the Supplier replaces any components which wear out due to fair wear and tear, the replacement component must be new and of the same or equivalent specification.
- 7.8 If the Parties agree that the Contracting Authority will pay any additional maintenance or repair costs, the Supplier must advise the Contracting Authority of the costs as soon as practicable which must then be subject

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

to approval in writing by the Contracting Authority and the Supplier must submit an invoice to the Contracting Authority within **twenty-one (21)** days of the cost being incurred.

Indemnity

7.9 The Supplier indemnifies the Contracting Authority against all reasonable Losses incurred whilst the Equipment is unavailable for use by the Contracting Authority due a Default or due to the negligence of the Supplier, its servants or agents.

Equipment Collection

7.10 At the Supplier's cost, the Supplier must collect the Equipment from the agreed collection point at the expiry or termination of the Lease Period within **five (5)** Working Days after the expiry or termination of the Lease Period.

7.11 The Supplier must agree a note of the condition of the Equipment with the authorised representative of the Contracting Authority at the time of collection and state the condition and mileage on an inspection form.

7.12 If Supplier does not collect the Equipment at the agreed time and collection point, the Supplier indemnifies the Contracting Authority against all Losses due to the failure to collect the Equipment as agreed.

Relief Equipment

7.13 If, whilst in the United Kingdom, a piece of Equipment becomes not fit for any of the purposes for which Equipment of its type is commonly used and the Equipment Order states that the Contracting Authority requires relief Equipment, the Supplier must make relief Equipment available for the Contracting Authorities use within the conditions specified in the Call-Off Contract for a period up to **twenty-eight (28)** days for any one event.

7.14 The Supplier must provide relief Equipment that is, where reasonably possible, a comparable model to the piece of Equipment which has become unfit for purpose.

7.15 The Contracting Authority must return the relief Equipment as directed by the Supplier within **two (2)** Working Days of being informed that the original Equipment is fit for all of the purposes for which Equipment of its type is commonly used.

7.16 The Contracting Authority must use and insure the relief Equipment on the terms specified within this Call-Off Contract.

7.17 Where a piece of Equipment is withdrawn from service under paragraph 8.9 above, if the Supplier does not provide relief Equipment to the Contracting Authority within **five (5)** Working Days of withdrawal, the Rentals in respect of that piece of Equipment are suspended and do not

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

resume until relief Equipment has been provided or the Equipment has been returned to the Contracting Authority. The suspension of Rentals is calculated on a daily basis.

8 Contracting Authorities Obligations

Modifications

- 8.1 The Contracting Authority must not alter, tamper with or modify any Equipment without the Supplier's written consent, which cannot be unreasonably withheld or delayed.

Limits of Use

- 8.2 While a piece of Equipment is in its control, the Contracting Authority must:
 - 8.2.1 keep and operate the Equipment in a suitable environment, use it only for the purposes for which it is intended, and operate it in a proper manner by trained competent staff in accordance with any operating instructions provided by the Supplier;
 - 8.2.2 take such steps (including compliance with all safety and usage instructions provided by the Supplier) as may be necessary to make sure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
 - 8.2.3 not overload the Equipment or use it for sub-hire or reward activities, any use for which it was not intended or any form of sporting competition;
 - 8.2.4 make sure that only persons qualified to do so operate the Equipment and that each operator holds any necessary permits, including a valid operator's licence or a valid driving licence where appropriate;
 - 8.2.5 not without the prior written consent of the Supplier, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on the land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to the land or building and the Contracting Authority must repair and make good any damage caused by the affixation or removal of the Equipment from any land or building;
 - 8.2.6 not do or allow to be done anything which will or might jeopardise the right, title and/or interest of the Owner or the Supplier in the Equipment and, where the Equipment has

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

become affixed to any land or building, the Contracting Authority must take all necessary steps to ensure that the Supplier can enter the land or building and recover the Equipment both during the Lease Period and for a reasonable period after the Lease Period, including by procuring from any person having an interest in the land or building, a waiver in writing and in favour of the Supplier of any rights the person may have or acquire in the Equipment and a right for the Supplier to enter onto the land or building to remove the Equipment;

8.2.7 not allow the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is confiscated, seized or taken, the Contracting Authority must notify the Supplier and the Contracting Authority must at its sole expense use its best endeavours to procure an immediate release of the Equipment;

8.2.8 not do or allow anything to be done which could invalidate the insurances referred to in paragraph 8.9; and

8.2.9 not use the Equipment for any unlawful purpose.

8.3 The Contracting Authority must make sure that at all times the Equipment is identifiable as being the Owner's property and wherever possible must make sure that a visible sign is attached to the Equipment labelling it as the Owner's property.

8.4 The Contracting Authority must not sell or offer to sell the Equipment and can only part with possession or control of the Equipment to an authorised user in the employment of the Contracting Authority.

8.5 The Contracting Authority must not allow to exist any lien nor assign mortgage pledge or otherwise deal with the Equipment in a manner inconsistent with either the Supplier's interest or the Owner's interest in the Equipment.

8.6 The Contracting Authority must keep the Supplier fully informed of all material matters relating to the Equipment.

8.7 The Contracting Authority must at all times keep the Equipment in the possession or control of the Contracting Authority and keep the Supplier informed of its location.

8.8 The Contracting Authority must allow the Supplier or its duly authorised representative to inspect the Equipment at all reasonable times and, to enable the Supplier to do so, the Contracting Authority must allow the Supplier entry to the Delivery Place or any premises at which the

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Equipment may be located, and must grant reasonable access and facilities for such inspection.

Insurance

8.9 The Contracting Authority must (unless self-insuring):

- 8.9.1 insure the Equipment from the Actual Delivery Date and keep the Equipment insured during the Lease Period and until the agreed date of collection by the Supplier, or its nominated agent to the full replacement value of the Equipment under a fully comprehensive policy of insurance in the name of the Contracting Authority bearing endorsements recording the interest of the Supplier and any other persons the Supplier nominates as loss payee. The insurance policy referred to above may be subject to such uninsured amount ("**Excess**") as may be applicable from time to time and the Contracting Authority indemnifies the Supplier against any Losses with the Excess;
- 8.9.2 punctually pay all premiums due under the insurance policy and otherwise comply with all the terms and conditions thereof and produce to the Supplier on demand the policy, evidence of the adequacy of the insurance and evidence that all premiums have been duly paid. If the Contracting Authority does not pay any premium the Supplier can do so and the Contracting Authority must reimburse the Supplier;
- 8.9.3 apply all money received in respect of such insurances in the repairing of damage to or in restoring or replacing the Equipment; and
- 8.9.4 on termination of the lease of a piece of Equipment for Total Loss, pay the Termination Sum together with all other sums due on termination. If the Contracting Authority pays the Supplier all amounts due on termination for Total Loss the Supplier must pay to the Contracting Authority a refund of Rentals of an amount equal to any insurance proceeds the Supplier receives.

Maintenance

- 8.10 The Contracting Authority must ensure that at all times the Equipment is maintained and operated in accordance with the manufacturer's recommendations and warranty stipulations and that the Equipment is kept clean and in a good state of repair.
- 8.11 The Contracting Authority must maintain operating and maintenance records of the Equipment and make copies of those records readily

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

available to the Supplier, together with any additional information relating to the Equipment as the Supplier may reasonably require.

- 8.12 If any piece of Equipment is involved in an accident which is not a Total Loss the Contracting Authority must have repairs carried out promptly at the Contracting Authorities own expense by either a retailer holding the franchise for the Equipment or an accredited insurance repair specialist approved by the Supplier. The Contracting Authority is responsible for ensuring that those repairs are properly carried out.

Fines and Penalties

- 8.13 The Contracting Authority is liable for all fines, fees or penalties incurred by any operator of a piece of Equipment provided under the Call-Off Contract. The Supplier must in all cases send to the Contracting Authority any notice or other communication the Supplier receives in respect of fines, fees or penalties.

Taking Overseas

- 8.14 The Contracting Authority must not take or allow any Equipment to be taken out of the United Kingdom without the previous written consent of the Supplier, which cannot be unreasonably withheld or delayed.

- 8.15 If the Supplier grants consent the Contracting Authority must pay a repatriation insurance premium to an association approved by the Supplier to make sure that the Equipment can, if necessary, be returned to the United Kingdom without cost to the Supplier.

- 8.16 The Contracting Authority must make sure that any Equipment is not taken outside of the United Kingdom for a period of more than **twenty-eight (28)** days without the previous written consent of the Supplier which cannot be unreasonably withheld or delayed.

Actions upon Termination of Lease or Expiry of Lease Period

- 8.17 On expiry of the Lease Period or in the event of early termination of the lease in respect of any Equipment the Contracting Authority must:

8.17.1 make the Equipment available for collection by the Supplier on the date assigned for collection. The Supplier will be bound by all obligations under this Call-Off Contract until the time when the Supplier actually collects the Equipment which the Supplier shall do promptly;

8.17.2 complete an inspection form with the Supplier on the Return Date and ensure that the Equipment is returned and that the Equipment is in a condition consistent with its age and mileage making due allowance for fair wear and tear;

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

- 8.17.3 remove all personal effects and any other items belonging to the Contracting Authority;
- 8.17.4 if the Supplier notifies the Contracting Authority that the Equipment is not in the condition required under paragraph 8.17.2, pay to the Supplier the amount that the Contracting Authority and the Supplier agree as the cost of rectification. In the event of any dispute regarding the condition of the Equipment, an independent assessment must be carried out by a properly qualified and experienced consultant appointed by the Supplier and the Contracting Authority. Any consultant must act as an expert and not as an arbitrator and their decision is final;
- 8.17.5 in the event of a dispute the Equipment or other form of evidence acceptable to the Contracting Authority must be held by the Supplier until an independent assessment has been made in accordance with Clause 8.17.4 above. The costs of the independent consultant must be borne equally between the Contracting Authority and the Supplier provided that both Parties act reasonably at all times during the dispute; and
- 8.17.6 in the event of damage to any Equipment the Supplier must forward an invoice to the Contracting Authority within **twenty-one (21)** days following the Return Date. In the case of dispute the Contracting Authority will notify the Supplier of what is in dispute within **twenty-one (21) days** of receipt of invoice or pay the invoice in accordance with the payment terms. Any such dispute must be resolved in accordance with Clause 34 of the Core Terms.

9 Purchase Option

- 9.1 Subject to paragraph 9.2, the Supplier must make sure that the Contracting Authority has the option, exercisable by not less than **twenty (20)** Working Days' written notice to the Supplier, to purchase the Equipment from the Owner on the last Working Day of the Lease Period at the Purchase Option Price.
- 9.2 The Contracting Authority can only exercise the Purchase Option if the Contracting Authority has paid in full all amounts due to the Supplier under the Call-Off Contract up to the date of exercise of the Purchase Option.
- 9.3 On completion of the purchase of the Equipment under this paragraph 9, the title to the Equipment as the Owner had on the Actual Delivery Date will transfer to the Contracting Authority. The Equipment will

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

transfer to the Contracting Authority in the condition and at the location in which it is found on the date of transfer.

10 Termination Of A Lease

10.1 Without affecting any other right or remedy available to them, the Supplier can terminate the hire of any piece of Equipment with immediate effect by giving written notice to the Contracting Authority if:

10.1.1 the Contracting Authority fails to pay any amount due under this Call-Off Contract on the due date for payment and remains in Default not less than 40 Working Days after being notified in writing to make such payment;

10.1.2 there is a material default of any other term of these Lease Terms by the Contracting Authority which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 Working Days after being notified in writing to do so; or

10.1.3 there is a consistent repeated failure by the Contracting Authority to comply with any of the terms of the Call-Off Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with them having the intention or ability to give effect to the terms of the Call-Off Contract.

10.2 The hire of a piece of Equipment terminates automatically if a Total Loss occurs in relation to the Equipment.

10.3 At any time, the Contracting Authority can terminate the hire of any piece of Equipment by giving 10 days' written notice to the Supplier.

11 Consequences Of Expiry Or Termination

11.1 Where the lease of any piece of Equipment is terminated for any reason, the Supplier's consent to the Contracting Authorities possession of the Equipment will terminate and the Supplier can, by its authorised representatives, without notice and at the Contracting Authorities expense, retake possession of the Equipment and for this purpose may enter the Delivery Place or any premises at which the Equipment is located.

11.2 Where paragraph 10 applies, the standard early termination charges apply and the Supplier must invoice the Contracting Authority as appropriate within twenty one (21) days following the termination.

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

The following table indicates the number of Month's rental that the Supplier can invoice to the Contracting Authority as a result of the lease of a piece of Equipment being terminated early based on the length of the Equipment lease and at which point during the Lease Period the lease of the Equipment is early terminated.

YEAR OF TERMINATION	SCHEDULED LEASE PERIOD			
	2 YEARS	3 YEARS	4 YEARS	5 YEARS
YEAR 1	2 months	5 months	6 months	7 months
YEAR 2	1 month	3 months	4 months	5 months
YEAR 3		1 month	2 months	3 months
YEAR 4			1 month	2 months
YEAR 5				1 month

11.3 Where paragraph 10 applies or where the lease of a piece of Equipment is terminated for any other reason (including Total Loss but excluding termination pursuant to Clause 10 of the Core Terms) the Contracting Authority must, within **thirty (30)** days of the termination pay the Supplier the Termination Sum by way of agreed liquidated damages.

11.4 The Supplier agrees that any payments made pursuant to paragraphs 11.2 or 11.3 above is the Suppliers sole and exclusive remedy in respect of the termination which resulted in the payment of money as provided for in those paragraphs.

11.5 Where the Contracting Authority terminates the Call-Off Contract under Clause 10 of the Core Terms and then makes other arrangements for the supply of the Equipment, the Contracting Authority can recover the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Contracting Authority from the Supplier. The Contracting Authority must take reasonable steps to mitigate any additional expenditure. Where the Call-Off Contract is terminated under Clause 10 of the Core Terms, the Contracting Authority will not make any further payments to the Supplier until the Contracting Authority has established the final cost of making those other arrangements.

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

12 The Owner

12.1 If the Owner and the Supplier are not the same person, the Owner can enforce:

12.1.1 paragraph 6.1; and

12.1.2 each of the following paragraphs of the Lease Terms as if it was the Supplier:

12.1.2.1 paragraph 7.15;

12.1.2.2 paragraph 7.16;

12.1.2.3 paragraph 8;

12.1.2.4 paragraph 10.1.2; and

12.1.2.5 paragraph 11.1.

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Annex A

Call-Off Schedule [22] (Lease Terms) – Equipment Order Form Template

[Contracting Authority guidance: This Equipment Order Form, when completed and executed by both Parties, forms an Equipment Order. An Equipment Order can be completed and executed using an equivalent document or available electronic purchase order system. If an electronic purchasing system is used instead of signing as a hard-copy, the text below must be copied into the electronic order form]

ORDER REFERENCE: **[Insert]** Contracting Authorities Equipment Order number]

DATE OF ORDER: **[Insert]** Date the order is placed]

THE CONTRACTING AUTHORITY: **[Insert]** Contracting Authorities name]

CONTRACTING AUTHORITY CONTACT **[Insert]** business address and contact number]

INVOICE CONTACT **[Insert]** business address for equipment invoicing]

THE SUPPLIER: **[Insert]** name of Supplier]

SUPPLIER ADDRESS: **[Insert]** registered address]

SUPPLIER ACCOUNT

MANAGER: **[Insert]** registered address]

THE DELIVERABLES

[Contracting Authority guidance: Insert the details for the Equipment and/or services which are the subject of the Call-Off Contract. For example:

[the Authority guidance: It may be helpful to Contracting Authorities if a list of Equipment from the Specification is included here for Contracting Authorities to choose from. Also please include a list of available support or maintenance services that Contracting Authorities can choose from]

Equipment: **[Insert]** Description of Equipment]

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Quantity: **[Insert]** Number of items]

Owner: **[Insert]** Name of the owner of the Equipment]

Services: **[Insert]** Description of any additional services]

Delivery Place: **[Insert]** all addresses where the Equipment is to be delivered and/or the services are to be performed]

Time and Date of Delivery **[Insert]** the Due Delivery Date]

LEASE PERIOD

The Lease Period shall be the period of **[Insert[] months / quarters / years]** from the Actual Delivery Date until the Return Date which is **[Insert[] months / quarters / years]** after the Actual Delivery Date.

[Contracting Authority guidance]: Extension periods are agreed in accordance with paragraph 6.5 of the Lease Terms]

PRICE AND PAYMENT

Deposit payable by the Contracting Authority **[Insert]** Deposit payable (including any applicable discount but excluding VAT)]

Rentals payable by the Contracting Authority **[Insert]** Rentals payable (including any applicable discount but excluding VAT)]

[Contracting Authority guidance] where the Contracting Authority requests and the Supplier provides the requested services then the Contracting Authority shall pay the corresponding charges]

Additional Charges for services **[Insert]** additional charges payable by the Contracting Authority (including any applicable discount but excluding VAT):

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

Purchase Option Price [Insert the Purchase Option Price (excluding VAT)]

Payment Method [Insert payment method(s) and necessary details]

Invoicing and Payment

The Supplier shall issue invoices [Delete monthly]/[quarterly] and the Contracting Authority shall pay the Supplier within thirty (30) days of receipt of a valid invoice, submitted in accordance with this Equipment Order Form and the provisions of the Call-Off Contract.

Termination Rental Charges

The termination rental charge shall be calculated as follows:

SPECIAL TERMS

(a) [Contracting Authority guidance specify whether any clauses apply to this Equipment Order in addition to the Lease Terms that are needed.]

Special Term 1

Special Term 2

(b)

BY SIGNING AND RETURNING THIS ORDER THE SUPPLIER AGREES that they have read the Lease Terms and by signing below agree to be bound by the terms.

For and on behalf of the Contracting Authority:

Name and Title	
Signature	
Date	

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0

Call-Off Schedule 22 (Lease Terms)

Call-Off Ref:

Crown Copyright 2019

--	--

For and on behalf of the Supplier:

Name and Title	
Signature	
Date	

Framework Ref: RM6160

Project Version: v1.0

Model Version: v1.0