

PROVISION OF SOCIAL MEDIA MONIT

CCCO16A11

CONTRACT BETWEEN

THE DEPARTMENT FOR TRANS

AND

RUNTIME COLLECTIVE LTD (BRAN

PART 1 – CCCO16A11 ORDER FORM

SECTION A

This Order Form is issued in accordance with the provisions of the RM3708 Media Monitoring and Evaluation and Related Services supply the Services specified below on and subject to the terms of for the avoidance of doubt this Call Off Contract consists of the Form and the Call Off Terms.

DATE	05/01/2017
ORDER NUMBER	TBC
FROM	Department for Transport "CUSTOMER" REDACTED
TO	Runtime Collective Ltd "SUPPLIER" REDACTED

SECTION B

1. CALL OFF CONTRACT PERIOD

1.1 Call Off Commencement Date:

23/01/2017

2.1 Services required

In Call Off Schedule 2 (Services)

2.2 Location/Sites of Delivery

Services will be carried out at the Suppliers own premises required to attend Meetings at the REDACTED.

2.3 Dates for Delivery of the Services

Daily

2.4 Implementation Plan

In Part A of Call Off Schedule 4 (Implementation Plan, C and Key Personnel)

2.5 Standards

Not used

2.6 Service Levels and Service Credits

In Part A of Call Off Schedule 6 (Service Levels, Service Monitoring). Service Credits are not used in this contract.

2.7 Critical Service Level Failure

In Annx 2 to Part A of Call Off Schedule 6 (Service Level Performance Monitoring)

2.8 Business Continuity and Disaster Recovery

In Call Off Schedule 9 (Business Continuity and Disaster

2.9 Performance Monitoring

In Annex 1 to Part B (Additional Performance Monitoring Schedule 6 (Service Levels, Service Credits and Perform

2.10 Security

In Call Off Schedule 8 (Security) - No additional security

2.11 Period for providing the Rectification Plan

In Clause 39.2.1(a) of the Call Off Terms

2.12 Exit Management

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4. CALL OFF CONTRACT CHARGES AND PAYMENT

- 4.1 Call Off Contract Charges payable by the Customer (including Milestone Payments and/or discount(s), but excluding VAT) and terms/profile including method of payment (e.g. Giro Direct, Credit Card (GPC) or BACS)**

In Call Off Schedule 3 (Call Off Contract Charges, Payment and Terms)

- 4.2 Estimated Year 1 Call Off Contract Charges**

Forty Thousand Pounds £40,000.00 plus possible 1 year extension of Pounds £40,000.00. Total contract value Eighty Thousand Pounds

- 4.3 Undisputed Sums Limit**

For the purposes of Clause 43.1.1 the Undisputed Sums Limit is Thirty Thousand Three Hundred and Thirty Three Pounds £3,333

SECTION C

5. CUSTOMER OTHER CONTRACTUAL REQUIREMENTS

- 5.1 Call Off Guarantee**

Not Applicable

- 5.2 Key Personnel**

In Part C of Call Off Schedule 4 (Implementation Plan, Call Off Terms and Key Personnel) and Clause 26 of the Call Off Terms

- 5.3 Relevant Convictions**

Clause 27.2.1 shall apply

- 5.4 Failure of Supplier Equipment**

Clause 32.8 of the Call Off Terms shall apply. For the purposes of Clause 32.8 the value for X shall be 2 and the value for Y shall be 12 months

**6. FORMATION OF CALL OFF CONTRACT
BY SIGNING AND RETURNING THIS ORDER FORM (which means) the Supplier agrees to enter a Call Off Contract Services.**

The Parties hereby acknowledge and agree that they have accepted the Call Off Terms and by signing below agree to be bound by these terms.

In accordance with paragraph 7 of Framework Schedule 1, the Customer hereby acknowledges and agrees that this Call Off Contract is a copy of the Order Form from the Supplier within two (2) business days of the date of the Customer's acknowledgment.

For and on behalf of the Supplier:

Name and Title	
Signature	
Date	

For and on behalf of the Customer:

Name and Title	
Signature	
Date	

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TERMS AND CONDITIONS

A. PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Call Off Contract, unless the context otherwise requires, all capitalised expressions shall have the meanings set out in Call Off Schedule 1 and the relevant Call Off Schedule in which that capitalised expression is defined.
- 1.2 If a capitalised expression does not have an interpretation in the Call Off Schedule (Definitions) or relevant Call Off Schedule, it shall have the meaning given in the Framework Agreement. If no meaning is given to it in the Call Off Schedule, it shall, in the first instance, be interpreted in accordance with the usual interpretation within the relevant market sector/industry. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Call Off Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, partnership, trust, corporation, unincorporated association, firm, partner, trustee, agent, or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to any Law that has been amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 the words "**including**", "**other**", "**in particular**", "**including without limitation**" and "**limitation**"; words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**limitation**";
 - 1.3.6 references to "**writing**" include typing, printing, electronic communication, display on a screen, electronic and facsimile transmission, or any other method of representing or reproducing words in a visible form; references to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed to include any statement or representation, whether written or oral, made by or on behalf of a party to the Call Off Contract.

- 1.4.1 the Framework Agreement, except Framework Schedule 20 (Tender);
 - 1.4.2 the Order Form;
 - 1.4.3 the Call Off Terms;
 - 1.4.4 Framework Schedule 20 (Tender).
- 1.5 Any permitted changes by the Customer to the Template Call Off Form under Clause 4 (Call Off Procedure) and Framework Schedule 5 (Call Off Procedure) shall prevail over the Framework Agreement and the Call Off Terms and the Call Off Form and the Particular Contract shall prevail over the Framework Agreement.
- 1.6 Where Framework Schedule 20 (Tender) contains provisions more favourable to the Customer in relation to this Call Off Contract, the Tender shall prevail. The Customer shall in its absolute discretion determine whether any provision in the Tender is more favourable to the Customer.

2 DUE DILIGENCE

- 2.1 The Supplier acknowledges that:
- 2.1.1 the Customer has delivered or made available to the Supplier the Due Diligence Information and documents that the Supplier considers necessary for the performance of its obligations under this Call Off Contract;
 - 2.1.2 it has made its own enquiries to satisfy itself as to the accuracy of the Due Diligence Information;
 - 2.1.3 it has satisfied itself (whether by inspection or having discussed the Due Diligence Information with the Customer before the Call Off Contract Date) and has entered into this Call Off Contract in reliance on the Due Diligence Information alone; and
 - 2.1.4 it shall not be excused from the performance of its obligations under this Call Off Contract on the grounds of, nor shall it be entitled to recover any additional costs or charges, arising as a result of:
 - (a) misinterpretation of the requirements of the Order Form or elsewhere in this Call Off Contract;
 - (b) failure by the Supplier to satisfy itself as to the accuracy or adequacy of the Due Diligence Information.

applicable (as the case may be for each Party) by insolvency, moratorium or similar Laws affecting and subject, as to enforceability, to equitable principles (regardless of whether enforcement is sought in Law).

3.2 The Supplier represents and warrants that:

- 3.2.1 it is validly incorporated, organised and subsisting under the Laws of its place of incorporation;
- 3.2.2 it has all necessary consents (including, where its parent is a company, the consent of its Parent Company) and regulatory approvals in connection with the Call Off Contract;
- 3.2.3 its execution, delivery and performance of its obligations under the Call Off Contract does not and will not constitute a breach of any applicable Laws and does not and will not cause or result in a breach of any applicable Laws or agreement by which it is bound;
- 3.2.4 as at the Call Off Commencement Date, all representations in any written submissions made in connection with the procurement process, including without limitation (where applicable), its Tender and any other documents submitted, are true and accurate except to the extent that such statements have been superseded or varied by this Call Off Contract;
- 3.2.5 as at the Call Off Commencement Date, it has notified the Customer of any Occasions of Tax Non-Compliance or any litigation in connection with any Occasions of Tax Non-Compliance;
- 3.2.6 it has and shall continue to have all necessary rights, titles and interests in the IPR, the Supplier Background IPRs and any other intellectual property owned by the Supplier (and/or any Sub-Contractor) to the extent necessary for the performance of the Supplier's obligations under the Call Off Contract including the receipt of the Services by the Customer;
- 3.2.7 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any distribution of any virus, worms and/or Trojans, spyware or other malware, or any data, software or the Customer's Confidential Information (in any form) owned by or under the control of, or used by,

- 3.3 Each of the representations and warranties set out in Clause 3.1 shall be construed as a separate representation and warranty and shall not be restricted by reference to, or inference from, the terms of any other warranty or any undertaking in this Call Off Contract.
- 3.4 If at any time a Party becomes aware that a representation or warranty under Clauses 3.1 and 3.2 has been breached, is untrue or inaccurate, it shall immediately notify the other Party of the relevant occurrence and shall enable the other Party to make an accurate assessment of the impact of the breach.
- 3.5 For the avoidance of doubt, the fact that any provision with respect to a material Default is expressed as a warranty shall not preclude any right of action that a Party may have in respect of breach of that provision by the Supplier or its material Default.

4. CALL OFF GUARANTEE – NOT USED

B. DURATION OF CALL OFF CONTRACT

5. CALL OFF CONTRACT PERIOD

- 5.1 This Call Off Contract shall commence on the Call Off Commencement Date. The term of this Call Off Contract shall be the Call Off Contract Term.

C. CALL OFF CONTRACT PERFORMANCE

6. IMPLEMENTATION PLAN

6.1 Formation of Implementation Plan

- 6.1.1 Where the Parties agreed in the Order Form (or any other part of the Contract) that an Implementation Plan (or parts thereof) shall be drafted by the Supplier prior to the commencement of the Supplier's Services, the Supplier's draft must contain information necessary to manage the implementation stage of the Services to the extent the Customer may require. The draft Implementation Plan shall identify all dependencies known to, or which should reasonably be known to, the Supplier.
- 6.1.2 The Supplier shall submit the draft Implementation Plan to the Customer for Approval (such decision of the Customer to Approve or Disapprove shall be final and binding on the Supplier).

have the right to require the Supplier to include any provisions in each version of the Implementation Plan.

6.2.2 Changes to the Milestones (if any), Milestone Payments (if any) shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not adjust the Milestones using the Variation Procedure or otherwise, unless as a result of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).

6.2.3 Where so specified by the Customer in the Implementation Plan, the Milestone Date or period shall be of the essence and failure to comply with such date, Milestone Date or period shall be a breach of the Implementation Plan. The Parties expressly agree otherwise.

6.3 Rectification of Delay in Implementation

6.3.1 If the Supplier becomes aware that there is, or there is anticipated to be, a Delay under this Call Off Contract:

- (a) it shall:
 - (i) notify the Customer as soon as possible, but not later than within two (2) Working Days of becoming aware of the Delay or anticipated Delay;
 - (ii) include in its notification an explanation of the anticipated impact of the Delay;
 - (iii) comply with the Customer's instructions to mitigate the impact of the Delay or anticipated Delay;
 - (iv) use all reasonable endeavours to minimise the consequences of any Delay.
- (b) if the Delay or anticipated Delay relates to a Milestone for which a Delay Payment has been specified in the Implementation Plan, Clause 6.4 (Delay Payments) shall apply.

6.4 Delay Payments

6.4.1 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 Customer such Delay Payments (if any) as specified in the Implementation Plan.

(Implementation Plan, Customer Key Personnel) for the purpose of commencing on the relevant

- (c) the Delay Payments will accrue on a daily basis from the Milestone Date and shall continue to accrue until the Milestone is Achieved (unless otherwise specified in the Implementation Plan);
- (d) no payment or concession to the Supplier shall be made by act or omission of the Customer shall in any event entitle the Customer to recover the Delay Payments or constitute a waiver of the right of the Customer to recover the Delay Payments unless such waiver complies with Clause 4 (Remedies) and refers specifically to a waiver of the right to claim Delay Payments; and
- (e) the Supplier waives absolutely any entitlement to the enforceability in whole or in part of this Clause. Delay Payments shall not be subject to or constitute a liability set out in Clause 37 (Liability).

7. SERVICES

7.1 Provision of the Services

- 7.1.1 The Supplier acknowledges and agrees that the Customer reserves the right of selection and judgment of the Supplier in the provision of the Services and the performance of its obligations under this Call Off Contract.
- 7.1.2 The Supplier shall ensure that the Services:
 - (a) comply in all respects with any description of the Services in Schedule 2 (Services) or elsewhere in this Contract;
 - (b) are supplied in accordance with the provisions of the Contract or the Tender.
- 7.1.3 The Supplier shall perform its obligations under this Clause in accordance with:
 - (a) all applicable Law;
 - (b) Good Industry Practice;

approvals, licences and permissions (contractual or otherwise) it may require and the provision of the Services;

- (c) ensure that any products or services required and specified by the Supplier for use by the Customer in the Deliverables and/or the Services shall be fit for use and/or the Services to meet the requirements of the Customer;
- (d) ensure that the Supplier Assets will be protected (except as agreed in writing with the Customer);
- (e) ensure that the Services are fully completed without the use of Customer Property or Customer Assets described in Item 4 (Implementation Plan, Customer Resources and Personnel) (or elsewhere in this Call Off Contract) by the Supplier in connection with this Call Off Contract;
- (f) minimise any disruption to the Sites and the Customer's operations when providing the Services;
- (g) ensure that any Documentation and training provided to the Customer are comprehensive, accurate and in accordance with Good Industry Practice;
- (h) co-operate with the Other Suppliers to provide the Customer with information (including any Documentation) in connection with the Services to any Other Supplier up to the Call Off Expiry Date for any reason, to enable the Other Supplier to supply of the Services (or any of them) to the Customer or Replacement Supplier;
- (i) assign to the Customer, or if it is unable to do so, or if it is legally able to do so) hold on trust for the Customer, all warranties and indemnities provided by any Sub-Contractor in respect of any Deliverables. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with the directions that the Customer may notify the Supplier;
- (j) provide the Customer with such assistance and information as may be reasonably required during the Call Off Contract;

Contractors and Supplier Personnel also do, or refrain from doing, anything.

8. SERVICES

8.1 Time of Delivery of the Services

- 8.1.1 The Supplier shall provide the Services on the date specified in the Call Off Contract Form (or elsewhere in this Call Off Contract) and the Supplier shall ensure that the Services are provided. Such provision shall include compliance with the conditions set out in Clause 6 (Implementation Plan).

8.2 Location and Manner of Delivery of the Services

- 8.2.1 Except where otherwise provided in this Call Off Contract, the Supplier shall provide the Services to the Customer through the Sites.
- 8.2.2 The Customer may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are located on the Customer's Premises, the Customer may carry out such inspection during normal business hours and on reasonable notice.

8.3 Undelivered Services

- 8.3.1 In the event that any of the Services are not Delivered by the Supplier in accordance with Clauses 7.1 (Provision of the Services), 8.1 (Time of Delivery of the Services) and 8.2 (Location and Manner of Delivery of the Services"), the Customer, without prejudice to any other rights of the Customer howsoever arising, shall be entitled to claim the applicable Call Off Contract Charges for the Services not Delivered until such time as the Undelivered Services are Delivered.
- 8.3.2 The Customer may, at its discretion and without prejudice to the rights and remedies of the Customer howsoever arising, suspend the Services in accordance with Clauses 7.1, (Provision of the Services), 8.1 (Time of Delivery of the Services) and 8.2 (Location and Manner of Delivery of the Services) until the relevant Milestone Date (if any) to be a material

8.4 Obligation to Remedy of Default in the Supply of the Services

- 8.4.1 Subject to Clauses 33.9.2 and 33.9.3 (IPR Indemnity), the Supplier shall be liable to the Customer for any loss or damage suffered by the Customer as a result of a default in the supply of the Services.

- (a) any withholding or deduction by the Customer or Supplier pursuant to the exercise of a right of withholding or deduction under this Call Off Contract;
- (b) the existence of an unresolved Dispute; and
- (c) any failure by the Customer to pay any Call Off Charges;
- (d) unless the Supplier is entitled to terminate the Call Off Contract under Clause 43.1 (Termination on Customer's Failure to Pay) for failure by the Customer to pay any Call Off Charges.

9. NOT USED

10. NOT USED

11. STANDARDS AND QUALITY

- 11.1 The Supplier shall at all times during the Call Off Contract Period, comply with the applicable Standards and maintain, where applicable, accreditation with the relevant regulatory or authorisation body.
- 11.2 Throughout the Call Off Contract Period, the Parties shall comply with any new or emergent standards which could affect the Supplier's performance under the Services by the Customer, of the Services. The adoption of any new or emergent standard, or changes to existing Standards, shall be agreed in accordance with the Variation Procedure. Any change to an existing Standard shall be agreed in accordance with Framework Schedule 2 (Services and Key Performance Indicators) and shall require the written consent of the Customer.
- 11.3 Where a new or emergent standard is to be developed by the Customer, the Supplier shall be responsible for ensuring that the Supplier's provision, or the Customer's receipt of the Services, complies with the Customer (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.
- 11.4 Where Standards referenced conflict with each other or with industry practice adopted after the Call Off Commencement Date, the Standard or best practice shall be adopted by the Supplier. Any Standard or Standards shall require Approval (and the written consent of the Customer where the relevant Standard or Standards is/are not approved by the Customer).

11.7 Where a standard, policy or document is referred to (Standards) by reference to a hyperlink, then if the hyperlink provides access to the relevant standard, policy or document, the Customer and the Parties shall agree the impact of any change to the standard, policy or document.

12. NOT USED

13. SERVICE LEVELS AND SERVICE CREDITS

13.1 The Parties shall comply with the provisions of Part A (Service Credits) of Call Off Schedule 6 (Service Levels, Service Credits and Monitoring).

13.2 The Supplier shall at all times during the Call Off Contract period provide Services to meet or exceed the Service Level Performance Level Performance Criterion.

13.3 The Supplier acknowledges that any Service Level Failure may have an adverse impact on the business and operations of the Customer and shall entitle the Customer to the rights set out in the provisions of Part A of Schedule 6 (Service Levels, Service Credits and Performance). The Supplier shall have the right to any Service Credits.

13.4 The Supplier acknowledges and agrees that any Service Level Failure shall be an adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to meet any Service Level Performance Criterion.

13.5 A Service Credit shall be the Customer's exclusive financial remedy for a Service Level Failure except where:

13.5.1 the Supplier has over the previous (twelve) 12 Months provided more than Service Credits in excess of the Service Credit Cap;

13.5.2 the Service Level Failure:

- (a) exceeds the relevant Service Level Threshold;
- (b) has arisen due to a Prohibited Act or wilful misconduct of any Supplier Personnel; and
- (c) results in:

- (i) the corruption or loss of any Customer Data; or
- the remedies under Clause 13.5.1 shall apply.

clause, in Annex 2 to Part A of Call Off Schedule 6
Credits and Performance Monitoring;

13.6.2 the principal purpose of the change is to reflect changes in
business requirements and/or priorities or to reflect changes in
standards; and

13.6.3 there is no change to the Service Credit Cap.

14. CRITICAL SERVICE LEVEL FAILURE

14.1 On the occurrence of a Critical Service Level Failure:

14.1.1 any Service Credits that would otherwise have accrued during that
Service Period shall not accrue; and

14.1.2 the Customer shall (subject to the Service Credit Cap and
37.2.1(a) (Financial Limits)) be entitled to withhold a sum equal to the
for the Critical Service Level Failure a sum equal to the amount of
Charges which would otherwise have been due to the Customer during
that Service Period ("**Compensation for Critical Service Level Failure**");

provided that the operation of this Clause 14.1 shall be without prejudice to
the Customer to terminate this Call Off Contract and/or to pursue any claim
Supplier for material Default as a result of such Critical Service Level Failure.

14.2 The Supplier:

14.2.1 agrees that the application of Clause 14.1 is commensurate with the risk that
Critical Service Level Failure occurs; and

14.2.2 acknowledges that it has taken legal advice on the application of this Clause
and has had the opportunity to price for that risk within the Call Off Contract
Contract Charges.

15. BUSINESS CONTINUITY AND DISASTER RECOVERY

15.1 Where specified in the Order Form, or elsewhere this Call Off Contract shall
shall comply with the provisions of Call Off Schedule 9 (Business Continuity and
Disaster Recovery).

16. DISRUPTION

16.5 If the Supplier is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business solely by reason of an event of Force Majeure, the Supplier shall be entitled to an appropriate allowance by way of an extension of time for completion of the Contract. In addition, the Customer will reimburse the Supplier for any losses reasonably incurred by the Supplier as a direct result of such event.

17. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE

17.1 Without prejudice to any other obligations of the Supplier, the Supplier shall be required to notify the Customer in respect of a specific Customer Cause (as defined in Clause 43.1.1 (Termination on Customer Cause Pay)), the Supplier shall:

- 17.1.1 notify the Customer as soon as reasonably practicable and in any event within two (2) Working Days of the Supplier becoming aware that a Customer Cause has occurred or is reasonably likely to occur:
- (a) the Customer Cause and its effect, or likelihood of occurrence, and the Supplier's ability to meet its obligations under this Contract;
 - (b) any steps which the Customer can take to mitigate the consequences and impact of such Customer Cause;
 - (c) use all reasonable endeavours to eliminate or reduce the consequences and impact of a Customer Cause and to avoid Losses that the Supplier may incur as a result of the consequences of any Delay or anticipated Delay.

18. CONTINUOUS IMPROVEMENT

18.1 The Supplier shall have an ongoing obligation throughout the Contract Period to identify new or potential improvements to the Services in accordance with this Clause 18 with a view to reducing the cost of the Services (including the Call Off Contract Charges) and/or improving the quality of the Services and their supply to the Customer. As part of this obligation, the Supplier shall identify and report to the Customer once every six (6) months:

- 18.1.1 the emergence of new and evolving relevant technologies that may be used to improve the Sites and/or the provision of the Services; and
- (b) any technological advances potentially available to the Supplier and the Customer that the Parties may wish to adopt;

18.3 If the Customer wishes to incorporate any improvement to the Services, the Customer shall request a Variation in accordance with Clause 17 and the Supplier shall implement such Variation at the cost of the Customer.

D. CALL OFF CONTRACT GOVERNANCE

19. PERFORMANCE MONITORING

19.1 Unless otherwise Approved or notified by the Customer, the Supplier shall comply with the monitoring requirements set out in Part B of Call Off Contract (Service Levels, Service Credits and Performance Monitoring).

19.2 The Supplier shall implement all measurement and reporting procedures necessary to measure, monitor and report on the performance of the provision of the Services against the applicable Service Levels. In detail sufficient to verify compliance with the Service Levels, if the Supplier specifies otherwise, the Supplier shall obtain Approval of the Customer for the monitoring tools and procedures prior to using the same.

19.3 In the case of any additional or alternative monitoring requirements notified by the Customer, the provisions relating to performance monitoring shall apply as set out in Annex 1 to Part B of Call Off Contract (Service Levels, Service Credits and Performance Monitoring).

20. REPRESENTATIVES

20.1 Each Party shall have a representative for the duration of the Call Off Contract who shall have the authority to act on behalf of their respective Party in relation to the Call Off Contract set out in, or in connection with, this Call Off Contract.

20.2 The initial Supplier Representative shall be the person named in the Supplier Representative Form. Any change to the Supplier Representative shall be notified to the Customer in accordance with Clause 27 (Supplier Personnel).

20.3 The Customer shall notify the Supplier of the identity of the Customer Representative within five (5) Working Days of the Call Off Contract. The Customer may, by written notice to the Supplier, revoke the authority of the Customer Representative or appoint a new Customer Representative.

Auditor(s) may carry out an inspection to assess the Supplier and/or its Sub-Contractors of any of the Supplier's Call Off Contract Agreement including for the following:

- (a) verify the accuracy of the Call Off Contract amounts payable by the Customer under the proposed or actual variations to them in accordance with the Contract);
- (b) verify the costs of the Supplier (including its Sub-Contractors and any third party suppliers) incurred in the provision of the Services;
- (c) verify the Open Book Data;
- (d) verify the Supplier's and each Sub-Contractor's compliance with applicable Law;
- (e) identify or investigate an actual or suspected fraud, impropriety or accounting mistakes or a breach of security and in these circumstances have no obligation to inform the Supplier of its investigations;
- (f) identify or investigate any circumstances which may affect the financial stability of the Supplier, the Financial Guarantor, the Call Off Guarantor and/or any Sub-Contractor who performs the Services;
- (g) obtain such information as is necessary to discharge its obligations to supply information for purposes of a judicial or administrative purposes including to the Comptroller and Auditor General;
- (h) review any books of account and the internal control accounts kept by the Supplier in connection with the Contract;
- (i) carry out the Customer's internal and statutory audits, examine and/or certify the Customer's annual financial accounts;
- (j) enable the National Audit Office to carry out its duties under Section 6(1) of the National Audit Act 2005.

- (o) inspect the Customer Assets, including equipment and facilities, for the purpose of ensuring that the Customer Assets are secure and that any data is secure as of the date; and/or
- (p) review the integrity, confidentiality and security of the Customer Assets.

21.3 The Customer shall use reasonable endeavours to ensure that the audit does not unreasonably disrupt the Supplier or the provision of the Services save insofar as the Supplier accepts and acknowledges. The conduct of audits carried out by the Auditor(s) is outside the control of the Customer.

21.4 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable assistance in:

21.4.1 all reasonable information requested by the Auditor(s) in connection with the audit;

21.4.2 reasonable access to sites controlled by the Supplier and to the Equipment used in the provision of the Services; and

21.4.3 access to the Supplier Personnel.

21.5 The Parties agree that they shall bear their own respective costs incurred in respect of compliance with their obligations under this Clause. If the audit reveals a Default by the Supplier in which case the Supplier shall be liable to reimburse the Customer for the Customer's reasonable costs incurred.

22. CHANGE

22.1 Variation Procedure

22.1.1 Subject to the provisions of this Clause 22 and of Clause 23 (Contract Charges, Payment and Invoicing), either Party may request a variation to this Call Off Contract provided that such a variation does not result in a material change of this Call Off Contract which would be prohibited by Regulations and the Law. Such a change once implemented shall be called a "**Variation**".

22.1.2 A Party may request a Variation by completing and submitting a Variation Request to the other Party giving sufficient information for the

- (d) a timetable for the implementation, together with the testing of the Variation; and
- (e) such other information as the Customer may require (or in response to) the Variation request.

22.1.4 The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.

22.1.5 Subject to 22.1.4, the receiving Party shall respond to the Variation request within the time limits specified in the Variation Form. Such time limits shall be subject to the discretion of the Customer and ultimately at the discretion of the Customer having regard to the Order and the proposed Variation.

22.1.6 In the event that:

- (a) the Supplier is unable to agree to or provide the Variation;
- (b) the Parties are unable to agree a change to the Variation Charges that may be included in a request for the Variation or to it as a consequence thereof,

the Customer may:

- (i) agree to continue to perform its obligations under the Call Off Contract without the Variation;
- (ii) terminate this Call Off Contract, except where the Supplier has performed all of the Order in accordance with the Call Off Contract or where the Supplier has performed substantial work being carried out under the Call Off Contract and in such a case the Parties shall agree upon a resolution to the matter. If no resolution cannot be reached, the matter shall be referred to arbitration under the Dispute Resolution provisions of the Call Off Contract.

22.1.7 If the Parties agree the Variation, the Supplier shall be bound by the same provisions so far as is applicable to the Variation was stated in this Call Off Contract.

22.2 Legislative Change

- (ii) whether any relief from compliance obligations is required, in order to Achieve a Milestone and/or Performance Measures; and
- (b) provide to the Customer with evidence:
 - (i) that the Supplier has minimised and maximised any reduction in respect of the costs of its Services;
 - (ii) as to how the Specific Change in Law of providing the Services; and
 - (iii) demonstrating that any expenditure for example which would be incurred in the provisions of Clause 21 (Records, Audit Access and Open Book Data, and Information), has been incurred in amending the Call Off Contract.

22.2.3 Any change in the Call Off Contract Charges or compliance obligations resulting from a Specific Change in Law (as defined in Clause 22.2.1(b)) shall be implemented in accordance with the Call Off Contract Procedure.

E. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

23. CALL OFF CONTRACT CHARGES AND PAYMENT

23.1 Call Off Contract Charges

23.1.1 In consideration of the Supplier carrying out its obligations under the Call Off Contract, including the provision of the Services, the Customer shall pay undisputed Call Off Contract Charges in accordance with the agreed payment profile and the invoicing procedure in Clause 23.1 (Call Off Contract Charges, Payment and Invoicing).

23.1.2 Except as otherwise provided, each Party shall bear its own costs and expenses incurred in respect of compliance with its obligations under Clause 21 (Records, Audit Access and Open Book Data), Clause 22 (Records and Information), 34.6 (Protection of Personal Data).

23.1.3 If the Customer fails to pay any undisputed Call Off

- 23.2.1 The Call Off Contract Charges are stated exclusive of VAT and are added at the prevailing rate as applicable and paid on the delivery of a Valid Invoice.
- 23.2.2 The Supplier shall indemnify the Customer on a joint and several liability, including any interest, penalties or costs demanded or assessed on the Customer at any time from the making of a demand pursuant to the indemnity clause, in respect of the Supplier's failure to account for or to pay any amount made to the Supplier under this Call Off Contract. A VAT Clause 23.2 (VAT) shall be paid in cleared funds to the Customer not less than five (5) Working Days before any tax or other liability is payable by the Customer.

23.3 Retention and Set Off

- 23.3.1 The Customer may retain or set off any amount due to the Supplier against any amount due to the Supplier under this Call Off Contract or any other agreement between the Supplier and the Customer.
- 23.3.2 If the Customer wishes to exercise its right pursuant to Clause 23.3.1, it shall give notice to the Supplier within thirty (30) days of the date of the invoice, setting out the Customer's reasons for making the deduction of the relevant Call Off Contract Charges.
- 23.3.3 The Supplier shall make any payments due to the Customer with deduction whether by way of set-off, counterclaim or otherwise unless the Supplier has obtained a sealed order from the court for an amount equal to such deduction to be paid by the Customer.

23.4 Foreign Currency

- 23.4.1 Any requirement of Law to account for the Services in a currency other than Sterling, (or to prepare for such accounting) instead of Sterling, shall be implemented by the Supplier free of charge.
- 23.4.2 The Customer shall provide all reasonable assistance to the Supplier with Clause 23.4.1 by the Supplier.

23.5 Income Tax and National Insurance Contributions

- 23.5.1 Where the Supplier or any Supplier Personnel are liable for or to pay national insurance contributions in respect of the Services under this Call Off Contract, the Supplier shall:

Services, then the Supplier shall ensure that its contract includes the following requirements:

- (a) that the Worker must comply with the Income Tax (Pensions) Act 2003 (ITEPA) and all other legislation relating to income tax in respect of that contract;
- (b) that the Worker must comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other legislation relating to national insurance contributions in respect of that contract; consideration;
- (c) that the Customer may, at any time during the Contract Period, request that the Worker provide information demonstrating how the Worker complies with the requirements of (a) and (b), or why those requirements do not apply. In such a case, the Customer may specify the information that the Worker must provide and the period within which the information must be provided;
- (d) that the Worker's contract may be terminated if the Customer requests if:
 - (i) the Worker fails to provide information to the Customer within the time specified in the contract; and/or
 - (ii) the Worker provides information that the Customer considers is inadequate or the Worker does not comply with the requirements of (a) and (b) and the Worker does not confirm that the Worker is complying with the requirements; and.
- (e) that the Customer may supply any information to the Worker to HMRC for the purpose of the collection of revenue for which they are responsible.

24. PROMOTING TAX COMPLIANCE

24.1 If, at any point during the Call Off Contract Period, a breach of Tax Compliance occurs, the Supplier shall:

24.1.1 notify the Customer in writing of such fact within five

25. BENCHMARKING

- 25.1 Notwithstanding the Supplier's obligations under (Improvement), the Customer shall be entitled to regularly review the Contract Charges and level of performance by the Supplier for the Services, against other suppliers providing services substantially similar to the Services during the Call Off Contract Period.
- 25.2 The Customer, acting reasonably, shall be entitled to use the information required for the achievement of value for money and to carry out the activities referred to in Clause 25.1 above.
- 25.3 The Customer shall be entitled to disclose the results of any benchmarking carried out for the Call Off Contract Charges and provision of the Services to any other Contracting Body (subject to the Contracting Body confidentiality undertakings).
- 25.4 The Supplier shall use all reasonable endeavours and disclose all information required by the Customer in order to undertake any benchmarking. Such information requirements shall be at the discretion of the Customer.
- 25.5 Where, as a consequence of any benchmarking carried out, the Customer decides improvements to the Services should be implemented, such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Customer.
- 25.6 The benefit of any work carried out by the Supplier at any time during the Contract Period to update, improve or provide the Services to any other Contracting Body and/or any alterations or variations to the provision of the Services, which are identified in the Contract or as a consequence of any work carried out by the Customer pursuant to Framework Schedule 12 (Call Off Contract Benchmarking), shall be implemented by the Supplier at no additional cost to the Customer by way of the Variation Procedure and at no additional cost to the Customer.

F. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

26. KEY PERSONNEL

- 26.1 This Clause shall apply if so specified in the Order Form or Call Off Contract. Part C of Call Off Schedule 4 (Implementation)

26.4.3 the person's employment or contractual arrangement with the Sub-Contractor is terminated for material breach of contract or

26.4.4 the Supplier obtains the Customer's prior written consent (which is not to be unreasonably withheld or delayed).

26.5 The Supplier shall:

26.5.1 notify the Customer promptly of the absence of any Key Personnel for short-term sickness or holidays of two (2) weeks. The Supplier shall ensure appropriate temporary cover for any Key Personnel.

26.5.2 ensure that any Key Role is not vacant for any longer than 30 Days;

26.5.3 give as much notice as is reasonably practicable of any intention to replace any member of Key Personnel and, except in the case of unexpected ill health or a material breach of the Key Personnel contract, this will mean at least three (3) Months' notice.

26.5.4 ensure that all arrangements for planned changes to Key Personnel include adequate periods during which incoming and outgoing Key Personnel together to transfer responsibilities and ensure that such changes do not have an adverse impact on the provision of the Services.

26.5.5 ensure that any replacement for a Key Role:

(a) has a level of qualifications and experience equivalent to that of the relevant Key Role; and

(b) is fully competent to carry out the tasks of the Key Role. Key Personnel whom he or she has replaced.

26.5.6 shall and shall procure that any Sub-Contractor shall not remove any Key Personnel during the Call Off Contract Period.

26.6 The Customer may require the Supplier to remove any Key Personnel if the Customer considers in any respect unsatisfactory. The Customer shall pay for the cost of replacing any Key Personnel.

27. SUPPLIER PERSONNEL

27.1 Supplier Personnel

- (ii) comply with all reasonable requirements concerning conduct at the Premises, including the security requirements set out in Schedule 8 (Security);
- (c) subject to Call Off Schedule 11 (Staff Transfer) of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or representatives of the Customer;
- (d) be liable at all times for all acts or omissions of the Supplier Personnel so that any act or omission of a member of the Supplier Personnel which results in a Default under this Call Off Schedule shall be a Default by the Supplier;
- (e) use all reasonable endeavours to minimise the number of absences in Supplier Personnel;
- (f) replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason;
- (g) bear the programme familiarisation and onboarding costs of any replacement of any Supplier Personnel;
- (h) procure that the Supplier Personnel shall be available at the Customer Premises immediately upon the Call Off Event.

27.1.2 If the Customer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Call Off Schedule, the Customer may:

- (a) refuse admission to the relevant person to the Customer Premises; and/or
- (b) direct the Supplier to end the involvement of the relevant person(s) in the provision of the Services of the relevant person(s).

27.1.3 The decision of the Customer as to whether any of the Supplier Personnel have access to the Customer Premises shall be final and binding.

27.2 Relevant Convictions

27.2.1 Where specified in the Order Form or elsewhere in the Call Off Schedule, the Supplier shall ensure that no person who discloses a Relevant Conviction, or who is found to have any Relevant Conviction, is involved in the provision of the Services.

and the Supplier shall not (and shall ensure shall not) engage or continue to employ in the any person who has a Relevant Conviction of

28. STAFF TRANSFER

28.1 The Parties agree that :

28.1.1 where the commencement of the provision of the S Services results in one or more Relevant Schedule 11 (Staff Transfer) shall apply as follows:

- (a) where the Relevant Transfer involves the Customer Employees, Part A of Call Off S shall apply;
- (b) where the Relevant Transfer involves the Former Supplier Employees, Part B of C Transfer) shall apply;
- (c) where the Relevant Transfer involves the Customer Employees and Transferring Fo Parts A and B of Call Off Schedule 11 (S and
- (d) Part C of Call Off Schedule 11 (Staff Trans

28.1.2 where commencement of the provision of the S Services does not result in a Relevant Transfer Schedule 11 (Staff Transfer) shall apply and Pa Schedule 11 (Staff Transfer) shall not apply; and

28.1.3 Part D of Call Off Schedule 11 (Staff Transfer) sh termination of the Services or any part of the Servic

28.2 The Supplier shall both during and after the Call Off Cor Customer against all Employee Liabilities that may arise brought against the Customer by any person where such or omission of the Supplier or any Supplier Personnel.

29. SUPPLY CHAIN RIGHTS AND PROTECTION

29.1 Appointment of Sub-Contractors

- (b) the scope of any Services to be provided by the Contractor; and
- (c) where the proposed Sub-Contractor is a Key Contractor, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contractor is operating on "arm's-length" terms.

29.1.3 If requested by the Customer within ten (10) Working Days of the Supplier's notice issued pursuant to Clause 29.1.2, the Supplier shall provide:

- (a) a copy of the proposed Sub-Contract; and
- (b) any further information reasonably requested by the Customer.

29.1.4 The Customer may, within ten (10) Working Days of the Supplier's notice issued pursuant to Clause 29.1.2 (or, if later, ten (10) Working Days of the information requested pursuant to Clause 29.1.3), request the Supplier to provide information of the relevant Sub-Contractor they consider that:

- (a) the appointment of a proposed Sub-Contractor is not in the best interests of the provision of the Services or may be otherwise detrimental to the interests of the Customer under this Contract; and
- (b) the proposed Sub-Contractor is unreliable or has provided poor quality or reasonable services to its other customers;
- (c) the proposed Sub-Contractor employs unqualified staff or has a poor track record in which case, the Supplier shall not proceed with the proposed appointment.

29.1.5 If:

- (a) the Customer has not notified the Supplier of the proposed Sub-Contractor's appointment within ten (10) Working Days of receipt of:
 - (i) the Supplier's notice issued pursuant to Clause 29.1.2;
 - (ii) any further information requested by the Customer pursuant to Clause 29.1.3;
- (b) the proposed Sub-Contract is not a Key Contract, the Supplier shall not require the written consent of the Authority.

- (b) the proposed Key Sub-Contractor is unable to provide reasonable services to its other customers;
- (c) the proposed Key Sub-Contractor employs

29.2.3 Except where the Authority and the Customer have consented under Clause 29.2.1, the Supplier shall ensure that the Call Off Contract shall include:

- (a) provisions which will enable the Supplier to meet its obligations under this Call Off Contract;
- (b) a right under CRTPA for the Customer to terminate the Call Off Contract under the Key Sub-Contract which could be exercised by the Customer;
- (c) a provision enabling the Customer to enforce the Call Off Contract as if it were the Supplier;
- (d) a provision enabling the Supplier to assign or subcontract or to transfer any of its rights and/or obligations under the Call Off Contract to the Customer or any Replacement Supplier;
- (e) obligations no less onerous on the Key Sub-Contractor as those imposed on the Supplier under this Call Off Contract:
 - (i) data protection requirements (Security Requirements) and 34.6 (Customer Data) and 34.6 (Customer Data);
 - (ii) FOIA requirements set out in 7.1.4(I) (Provision of Information);
 - (iii) the obligation not to embarrass the Customer or to bring the Customer into disrepute in connection with the Call Off Contract; 7.1.4(I) (Provision of Services);
 - (iv) the keeping of records in respect of the Call Off Contract provided under the Key Sub-Contract and the maintenance of Open Book Accounting;
 - (v) the conduct of audits set out in 7.1.4(I) (Provision of Information) Access & Open Book Data

29.3 Supply Chain Protection

29.3.1 The Supplier shall ensure that all Sub-Contracts contain

- (a) requiring the Supplier to pay any undisputed sums from it to the Sub-Contractor within a specified period of thirty (30) days from the receipt of a Valid Invoice;
- (b) a right for the Customer to publish the Supplier's obligation to pay undisputed invoices within a specified period.

29.3.2 The Supplier shall:

- (a) pay any undisputed sums which are due from the Supplier to the Sub-Contractor within thirty (30) days from the receipt of a Valid Invoice;
- (b) include within the Performance Monitoring Part B of Call Off Schedule 6 (Service Level Agreement Performance Monitoring) a summary of the Supplier's compliance with Clause 29.3.2, such data to be certified each month by the Supplier as being accurate and not misstated.

29.3.3 Notwithstanding any provision of Clauses 34.3 (Publicity and Branding) if the Supplier notifies the Customer that it has failed to pay an undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or the Customer otherwise discovers the Supplier's failure, the Customer shall be entitled to publish the details of the late or non-payment on its website and on government websites and in the press).

29.4 Termination of Sub-Contracts

29.4.1 The Customer may require the Supplier to terminate

- (a) a Sub-Contract where:
 - (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the exercise of the right of termination pursuant to the events in Clause 42 (Customer's Right to Terminate) except Clause 42.6 (Termination of Sub-Contracts) and/or
 - (ii) the relevant Sub-Contractor or the Supplier has failed to pay the Customer or otherwise

Control took place or the d
was given notice of the Ch

29.5 Competitive Terms

- 29.5.1 If the Customer is able to obtain from any Sub-Contractor a party more favourable commercial terms with respect to the materials, equipment, software or services used in the supply of the Services, the Supplier Personnel in the supply of the Services, then the Supplier shall:
- (a) require the Supplier to replace its existing Sub-Contractor with the more favourable one identified by the Customer in respect of the relevant item;
 - (b) be subject to Clause 29.4 (Termination of Sub-Contractor) in its direct agreement with that Sub-Contractor in respect of the relevant item.
- 29.5.2 If the Customer exercises the option pursuant to Clause 29.4, the Call Off Contract Charges shall be reduced by an amount in accordance with the Variation Procedure.
- 29.5.3 The Customer's right to enter into a direct agreement with a Sub-Contractor for relevant items is subject to:
- (a) the Customer shall make the relevant item available to the Supplier where this is necessary for the Supplier to supply the relevant item;
 - (b) any reduction in the Call Off Contract Charges shall be subject to any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of termination charges.

29.6 Retention of Legal Obligations

- 29.6.1 Notwithstanding the Supplier's right to sub-contract the Services (Supply Chain Rights and Protection), the Supplier shall remain liable for all acts and omissions of its Sub-Contractors and their employees of those employed or engaged by the Sub-Contractors.

G. PROPERTY MATTERS

- 30.1.3 Save in relation to such actions identified by the S Clause 2 (Due Diligence) and set out in the Order Call Off Contract), should the Supplier require modifications to the Customer Premises, such modifications shall be subject to Approval by the Customer at the Supplier's expense. The Supplier shall carry out any modification work which it approves pursuant to this clause without undue delay. Ownership of such modifications shall remain with the Supplier.
- 30.1.4 The Supplier shall observe and comply with such rules and regulations that may be in force at any time for the use of such Customer Premises. The Supplier shall pay for the full cost of making good any damage caused by its Supplier Personnel other than fair wear and tear. Fair wear and tear includes without limitation damage to the fixed equipment or fittings therein.
- 30.1.5 The Parties agree that there is no intention on the part of either Party to create a tenancy of any nature whatsoever in favour of the Supplier Personnel and that no such tenancy has been created. The Customer and, notwithstanding any rights granted pursuant to this clause, the Customer retains the right at any time to use any Customer Premises in any manner it sees fit.

30.2 Security of Customer Premises

- 30.2.1 The Customer shall be responsible for maintaining the security of the Customer Premises in accordance with the Security Policy. The Supplier shall comply with the Security Policy and any other security requirements of the Customer while on the Customer Premises.
- 30.2.2 The Customer shall afford the Supplier upon Approval to inspect its physical security arrangements. The Customer shall not unreasonably withhold or delay its Approval to inspect its physical security arrangements.

31. CUSTOMER PROPERTY

- 31.1 Where the Customer issues Customer Property free of charge to the Supplier, the Customer Property shall be and remain the property of the Customer. The Supplier irrevocably licences the Customer and its agents to use the Customer Property on the premises of the Supplier during normal business hours. The Supplier shall not recover any such Customer Property.

31.6 The Supplier shall ensure the security of all the Customer's Property in the Supplier's possession, either on the Sites or elsewhere during the term of the Services in accordance with the Customer's Security Policy and the Supplier's security requirements from time to time.

31.7 The Supplier shall be liable for all loss of, or damage to, the Customer's Property (excluding fair wear and tear), unless such loss or damage is caused by a Customer Cause. The Supplier shall inform the Customer of any defects appearing in or losses or damage to the Customer's Property.

32. SUPPLIER EQUIPMENT

32.1 Unless otherwise stated in the Order Form (or elsewhere in the Services), the Supplier shall provide all the Supplier Equipment necessary to provide the Services.

32.2 The Supplier shall not deliver any Supplier Equipment to the Customer Premises without obtaining Approval.

32.3 The Supplier shall be solely responsible for the cost of the Supplier Equipment to the Sites and/or any Customer Premises and for the removal of all packaging and all other associated costs. After the Expiry Date the Supplier shall be responsible for the removal of the Supplier Equipment from the Sites and/or any Customer Premises and for the packing, carriage and making good the Sites and/or any Customer Premises following removal.

32.4 All the Supplier's property, including Supplier Equipment, shall be at the risk and responsibility of the Supplier, except that the Customer shall be responsible for loss of or damage to any of the Supplier's property located at the Customer Premises which is due to the negligent act or omission of the Customer.

32.5 Subject to any express provision of the BCDR Plan to the contrary, the Supplier shall be responsible for the destruction for any reason of any Supplier Equipment and for the fulfilment of its obligation to supply the Services in accordance with the Services, including the Service Level Performance Measures.

32.6 The Supplier shall maintain all Supplier Equipment while at the Customer Premises in a safe, serviceable and clean condition.

32.7 The Supplier shall, at the Customer's written request, a

its own cost with a new item of Supplier Equipment or component of the same specification or having the same capability as the replaced).

H. INTELLECTUAL PROPERTY AND INFORMATION

33. INTELLECTUAL PROPERTY RIGHTS

33.1 Allocation of title to IPR

33.1.1 Save as expressly granted elsewhere under this Contract:

(a) the Customer shall not acquire any right, title or interest in the Intellectual Property Rights of the Supplier:

- (i) the Supplier Background IPR;
- (ii) the Third Party IPR;
- (iii) the Project Specific IPR.

(b) the Supplier shall not acquire any right, title or interest in the Intellectual Property Rights of the Customer or the:

- (i) Customer Background IPR; and
- (ii) Customer Data.

33.1.2 Where either Party acquires, by operation of Law, title or Intellectual Property Rights that is inconsistent with the allocation of title in this Contract, the Party shall assign in writing such Intellectual Property Rights to the other Party on the request of the other Party (with the necessary consents).

33.1.3 Neither Party shall have any right to use any of the other Party's names or trade marks on any of its products or services without the other Party's written consent.

33.2 Licence granted by the Supplier: Project Specific IPR

33.2.1 The Supplier hereby grants to the Customer, or shall assign to the Customer of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use the Project Specific IPR including but not limited to:

after the Supplier gives the Customer written notice requiring its remedy.

33.3.3 In the event the licence of the Supplier Background IPR is terminated pursuant to Clause 33.3.2, the Customer shall:

- (a) immediately cease all use of the Supplier Background IPR;
- (b) at the discretion of the Supplier, return or destroy all documents and other tangible materials that contain any of the Supplier Background IPR, provided that if the Supplier has not notified the Customer within (6) months of the termination of the licence, the Customer shall destroy the documents and other tangible materials containing the Supplier Background IPR; and
- (c) ensure, so far as reasonably practicable, that the Supplier Background IPR that is held in electronic form in any readily accessible form ceases to be readily accessible to the information technology staff of the Customer, including any word processor, voicemail system or any other system containing such Supplier Background IPR.

33.4 Customer's right to sub-license

33.4.1 The Customer shall be freely entitled to sub-license the Supplier Background IPR pursuant to Clause 33.2.1 (Licence granted by the Supplier) (Licence granted by the Supplier).

33.4.2 The Customer may sub-license:

- (a) the rights granted under Clause 33.3.1 (Licence granted by the Supplier: Supplier Background IPR) to a third party, provided that, without avoidance of doubt, any Replacement Supplier:
 - (i) the sub-licence is on terms no less favourable to the Customer; and
 - (ii) the sub-licence only authorises the Replacement Supplier to exercise the rights licensed in Clause 33.3.1 (Licence granted by the Supplier: Supplier Background IPR) relating to the Services (including the Services) or for any purpose of the Customer's (or, if the Customer is a Government Body, any

33.8 Termination of licenses

- 33.8.1 Subject to Clause 33.3 (Licence granted by the Supplier), all licences granted pursuant to this Clause (Rights) (other than those granted pursuant to Clause 33.7 (Licence granted by the Customer)) shall terminate on the Call Off Expiry Date.
- 33.8.2 The Supplier shall, if requested by the Customer in accordance with Schedule 10 (Exit Management), grant (or procure) to a Replacement Supplier of a licence to use any Supplier Third Party IPR on terms equivalent to those set out in Schedule 10, as if granted by the Supplier: Supplier Background IPR. A Replacement Supplier entering into reasonable commercial arrangements with the Supplier.
- 33.8.3 The licence granted pursuant to Clause 33.7 (Licence granted by the Customer) and any sub-licence granted by the Supplier pursuant to Clause 33.7.1 (Licence granted by the Customer) shall terminate automatically on the Call Off Expiry Date and the Supplier shall:
- (a) immediately cease all use of the Customer Background IPR and Customer Data (as the case may be);
 - (b) at the discretion of the Customer, return or destroy any physical or other tangible materials that contain any of the Customer Background IPR and the Customer Data, provided that the Supplier has made an election within six months of the termination of the licence: the Supplier may destroy the documents and other materials that contain any of the Customer Background IPR and Customer Data (as the case may be); and
 - (c) ensure, so far as reasonably practicable, that the Customer Background IPR and Customer Data that are stored in digital or other machine-readable form are not accessible from any computer, word processing software or any other device of the Supplier containing the Customer Background IPR and/or Customer Data.

33.9 IPR Indemnity

- (ii) the replaced or modified item or service shall have no effect on any other Service;
- (iii) there is no additional cost to the Customer;
- (iv) the terms and conditions of the original contract shall apply to the replaced or modified item or service.

33.9.3 If the Supplier elects to procure a licence in accordance with Clause 33.9.2 or to modify or replace an item pursuant to Clause 33.9.1, then, if the IPR Claim is avoided or resolved the IPR Claim, then:

- (i) the Customer may terminate the contract by giving written notice with immediate effect;
- (ii) without prejudice to the indemnity in Clause 33.9.1, the Supplier shall be liable for the Supplier's unavoidable costs of the substitution and the additional costs of procuring and maintaining the substitute item or service.

34. SECURITY AND PROTECTION OF INFORMATION

34.1 Security Requirements

34.1.1 The Supplier shall comply with the Security Policy in the Call Off Schedule 8 (Security) including the Security Management Plan and shall ensure that the Security Management Plan fully complies with the Security Policy.

34.1.2 The Customer shall notify the Supplier of any change to the Security Policy.

34.1.3 If the Supplier believes that a change or proposed Security Policy will have a material and unavoidable cost impact on the Services it may propose a Variation to the Call Off Contract. The Supplier must support its request by providing evidence of increased costs and the steps that it has taken to mitigate the change to the Call Off Contract Charges shall then be determined by the Variation Procedure.

34.1.4 Until and/or unless a change to the Call Off Contract is agreed by the Customer pursuant to the Variation Procedure the Supplier shall

- 34.2.5 The Supplier shall perform secure back-ups of all data to ensure that up-to-date back-ups are stored off-site in accordance with any BCDR Plan or otherwise. The Supplier shall ensure such back-ups are available to the Customer (or to a third party the Customer may direct) at all times upon request. The Supplier shall perform such back-ups of the Customer Data to the Customer at no less than six (6) Monthly intervals (the frequency may be agreed in writing between the Parties).
- 34.2.6 The Supplier shall ensure that any system on which the Customer Data, including back-up data, is a secure system in accordance with the Security Policy and the Security Management Plan.
- 34.2.7 If at any time the Supplier suspects or has reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way, the Supplier shall notify the Customer immediately and shall take such steps as are necessary of the remedial action the Supplier proposes to take.
- 34.2.8 If the Customer Data is corrupted, lost or sufficiently degraded in any way so as to be unusable, the Supplier may:
- (a) require the Supplier (at the Supplier's expense) to restore the Customer Data to the extent of the requirements specified in Call Off Schedule 9 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer, and the Supplier shall do so as soon as possible and not later than five (5) Working Days from the date of the Customer's notice; and/or
 - (b) itself restore or procure the restoration of the Customer Data to be repaid by the Supplier any reasonable cost incurred by the Supplier so to the extent and in accordance with the requirements of Call Off Schedule 9 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer.

34.3 Confidentiality

- 34.3.1 For the purposes of this Clause 34.3, the term "**Disclosing Party**" shall mean a Party which discloses or makes available directly or indirectly Confidential Information and "**Recipient**" shall mean the Party to whom Confidential Information is disclosed directly or indirectly Confidential Information.
- 34.3.2 Except to the extent set out in this Clause 34.3, the Supplier shall not disclose or make available directly or indirectly Confidential Information to any third party, except as expressly permitted elsewhere in this Call Off Contract.

34.3.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 34.5 (Freedom of Information) does not apply to disclosures required under the FOIA or the Freedom of Information Act;
- (b) the need for such disclosure arises out of:
 - (i) any legal challenge or potential legal challenge to the Confidential Information of a Customer arising out of or in connection with this Call Off Contract;
 - (ii) the examination and certification of accounts (provided that the Confidential Information is not on a confidential basis) or for any other purpose relating to the economy, efficiency and effectiveness of the operations of a Customer is making use of the Confidential Information under this Call Off Contract;
 - (iii) the conduct of a Central Government investigation in the respect of this Call Off Contract;
- (c) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure of the Confidential Information to the Serious Fraud Office.

34.3.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the required disclosure including the relevant Law requiring such disclosure and the Confidential Information that disclosure would apply.

34.3.5 Subject to Clauses 34.3.2 and 34.3.7, the Supplier shall disclose Confidential Information of the Customer on a confidential basis to:

- (a) Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information in order to perform the performance of the Supplier's obligations under the Contract and

- (c) to the extent that the Customer (acting reasonably) requires disclosure to be necessary or appropriate in the course of its normal business functions;
- (d) on a confidential basis to a professional adviser or other person engaged by any of the Disclosing Parties under Clause 34.3.7(a) (including any benchmarking or other purpose) for any purpose relating to or connected with this Call Off Contract; or
- (e) on a confidential basis for the purpose of the performance of its obligations under this Call Off Contract; or
- (f) to a proposed transferee, assignee or novatee of the Contract, or to the Customer,
- (g) and for the purposes of the foregoing, reference to disclosure on a confidential basis shall mean disclosure pursuant to any agreement or arrangement containing terms which are no less restrictive than those placed on the Customer under this Call Off Contract.

34.3.8 Nothing in this Clause 34.3 shall prevent a Disclosing Party from disclosing techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to third parties, which shall not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

34.3.9 In the event that the Supplier fails to comply with Clause 34.3, the Customer reserves the right to terminate this Call Off Contract for Default.

34.4 Transparency

34.4.1 The Parties acknowledge that, except for any information which is disclosed from disclosure in accordance with the provisions of Clause 34.3, disclosure under this Call Off Contract is not Confidential Information. The Customer shall determine whether any of the content of this Call Off Contract is Confidential Information. The Customer shall disclose Confidential Information in accordance with the provisions of the Contract. The Customer shall consult with the Supplier to inform its decision regarding the disclosure of Confidential Information. The Customer shall have the final decision in its absolute discretion.

34.4.2 Notwithstanding any other provision of this Call Off Contract, the Supplier hereby gives his consent for the Customer to publish Confidential Information in its entirety (but with any information which is excluded from disclosure under Clause 34.3).

- (c) provide the Customer with a copy of all Information requested in the Request for Information in the possession or control in the form that the Customer reasonably specify) of the Customer's request within five (5) Working Days (or such other period as the Customer reasonably specify) of the Customer's request; and
- (d) not respond directly to a Request for Information in writing to do so by the Customer.

34.5.2 The Supplier acknowledges that the Customer may request the Supplier to respond to Requests for Information (including Requests for Information) without consulting or obtaining consent from the Customer. The Customer shall take reasonable steps to notify the Supplier of any Request for Information (in accordance with the Secretary of State's Code of Practice on the Discharge of the Functions of Public Authorities in relation to the FOIA) to the extent that it is permissible and practicable to do so but (notwithstanding any other provision in this Call for Proposals) the Customer shall be responsible for determining whether any Commercially Sensitive Information and/or Confidential Information is exempt from disclosure in accordance with the FOIA.

34.6 Protection of Personal Data

34.6.1 Where any Personal Data are processed in connection with this Call for Proposals, the Parties' rights and obligations under this Call for Proposals shall be governed by the provisions of this Call for Proposals. The Parties acknowledge that the Customer is the Data Controller and the Supplier is the Data Processor.

34.6.2 The Supplier shall:

- (a) Process the Personal Data only in accordance with the instructions of the Customer to perform its obligations under this Call for Proposals;
- (b) ensure that at all times it has in place appropriate technical and organisational measures to guard against the loss, Processing of the Personal Data and/or access to or disclosure of the Personal Data or damage to the Personal Data, including those set out in Clauses 34.1 (Security Requirements) and 34.2 (Confidentiality of Customer Data);
- (c) not disclose or transfer the Personal Data to any third party (including Supplier Personnel) unless necessary for the performance of its obligations under this Call for Proposals;

- writing to do so by the Customer, or any other person, as permitted by this Call Off Clause;
 - (ii) have undergone adequate training in the protection and handling of Personal Data (as set out in the DPA);
 - (e) notify the Customer within five (5) Working Days of:
 - (i) from a Data Subject (or third party) in response to a Subject Access Request (or a third party Access Request) a request for access to any Personal Data or any communication relating to Personal Data under the DPA;
 - (ii) any communication from the Information Commissioner or any other regulatory authority in relation to Personal Data; or
 - (iii) a request from any third party for access to Personal Data where compliance with the request is required or purported to be required by law;
 - (f) provide the Customer with full cooperation and assistance on the timescales reasonably required by the Customer in relation to a complaint, communication or request made in accordance with 34.6.2(e)), including by promptly providing:
 - (i) the Customer with full details and copies of any communication or request;
 - (ii) where applicable, such assistance as is reasonably requested by the Customer to comply with the Data Subject's request within the relevant timescales;
 - (iii) the Customer, on request by the Customer, with copies of Personal Data it holds in relation to the Data Subject and
 - (g) if requested by the Customer, provide a list of all measures that has taken and technical and organisational measures in place, for the purpose of complying with the DPA;

- (b) the Supplier shall set out in its proposed Variation details of the following:
 - (i) the Personal Data which will be Processed in or to any Restricted Countries;
 - (ii) the Restricted Countries to which the Personal Data will be transferred and/or Processed;
 - (iii) any Sub-Contractors or other third parties who will be Processing and/or receiving the Personal Data in Restricted Countries;
 - (iv) how the Supplier will ensure the appropriate protection and adequate safeguards for the Personal Data that will be transferred to Restricted Countries and the Customer's compliance with applicable laws.
- (c) in providing and evaluating the Variation, the Supplier shall take into account the requirements of applicable laws, Government Bodies and Information Commissioners' Office procedures, guidance and codes of practice and ensure that its processes in connection with the Processing of Personal Data to any Restricted Countries comply with such other applicable laws.
- (d) the Supplier shall comply with such other applicable laws and take out such other actions as the Customer may require, including:
 - (i) incorporating standard and/or model contractual clauses approved by the European Commission or other competent authority as adequate safeguards under applicable laws, or a Safe Harbor arrangement or a Safe Harbor Off Contract or a similar arrangement or a similar agreement between the Parties;
 - (ii) procuring that any Sub-Contractor who will be Processing and/or receiving Personal Data in any Restricted Countries complies with the law that it enters into:

(A) a direct data processing agreement with the Customer that complies with the requirements required by the Customer; or

extent the Supplier is aware, or ought reasonably to be aware, that the same would be a breach of such obligations.

35. CYBER SECURITY

35.1 The Supplier must comply with the requirements set out in Part A of Framework Schedule 2 (Services and Key Performance Indicators) and ensure that its Sub-Contractors, where appropriate, comply with the same in order to demonstrate compliance with the technical requirements of the Cyber Essentials

36. PUBLICITY AND BRANDING

36.1 The Supplier shall not:

36.1.1 make any press announcements or publicise this Contract or

36.1.2 use the Customer's name or brand in any press announcement or advertisement of orders,

36.1.3 without Approval (the decision of the Customer to give Approval may be unreasonably withheld or delayed).

36.2 Each Party acknowledges to the other that nothing in this Contract expressly or by implication constitutes an endorsement or approval of the other Party (including the Services and Supplier ERM) and each agrees not to conduct itself in such a way as to imply or create an endorsement.

I. LIABILITY AND INSURANCE

37. LIABILITY

37.1 Unlimited Liability

37.1.1 Neither Party excludes or limits its liability for:

(a) death or personal injury caused by its employees, agents or Sub-Contractors (as defined in the Contract);

(b) bribery or Fraud by it or its employees;

- (ii) Compensation for Critical Services incurred in any rolling period of 12 Months aggregate to the Service Credit Cap;
- (b) in respect of all other Losses incurred by the Supplier in connection with this Call Off Contract as a result of a Default by the Supplier shall in no event exceed:
 - (i) in relation to any Defaults occurring in any Call Off Contract Year from the Commencement Date to the end of the Call Off Contract Year, the higher of a sum equal to one million pounds (£1,000,000) and a sum equal to fifty per cent (150%) of the Contract Charges;
 - (ii) in relation to any Defaults occurring in any Call Off Contract Year from the remainder of the Call Off Contract Period to the end of the Call Off Contract Year and a sum equal to one million pounds (£1,000,000) and fifty per cent (150%) of the Contract Charges payable to the Supplier in the Call Off Contract in the previous Call Off Contract Year;
 - (iii) in relation to any Defaults occurring in any Call Off Contract Year that commences in the Call Off Contract Period, a sum equal to one million pounds (£1,000,000) in each Call Off Contract Year and a sum equal to fifty per cent (150%) of the Contract Charges payable to the Supplier under the Call Off Contract in the last Call Off Contract Year of the Call Off Contract Period;

37.2.2 Subject to Clauses 37.1 (Unlimited Liability) and 37.2.1, the Supplier's liability without prejudice to its obligation to pay the undischarged Contract Charges as and when they fall due for payment shall be limited to its aggregate liability in respect of all Losses as a result of a Default by the Supplier shall be limited to:

- (a) in relation to any Customer Causes occurring in any Call Off Contract Year

37.3 Non-recoverable Losses

37.3.1 Subject to Clause 37.1 (Unlimited Liability) neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential Loss;
- (b) loss of profits, turnover, savings, business or other assets or rights or interest in goodwill (in each case whether direct or indirect).

37.4 Recoverable Losses

37.4.1 Subject to Clause 37.2 (Financial Limits), and notwithstanding Clause 37.3.1 (Non-recoverable Losses), the Supplier acknowledges that it may, amongst other things, recover from the Supplier the amount of any Losses incurred by the Customer to the extent that they arise out of or in connection with a Default by the Supplier:

- (a) any additional operational and/or administrative costs or expenses incurred by the Customer, including costs incurred by the Supplier on behalf of the Customer in dealing with a Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Deliverables, which shall include any increase in the cost of such Replacement Deliverables with such Replacement Services and/or other costs in excess of those above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party in connection with a Default and
- (e) any fine, penalty or costs incurred by the Customer in connection with a Default.

37.5 Miscellaneous

37.5.1 Each Party shall use all reasonable endeavours to minimise the amount of any damage suffered arising out of or in connection with a Default.

37.5.2 Any Deductions shall not be taken into consideration in calculating the Supplier's liability under Clause 37.2 (Financial Limits).

- 38.5 The Supplier shall give the Customer, on request, copies of the policies referred to in this Clause 38 or a broker's verification of cover that the appropriate cover is in place, together with receipts for the payment of the latest premiums due under those policies.
- 38.6 If, for whatever reason, the Supplier fails to give effect to the insurance policies required under this Clause 38 the Customer shall make such arrangements to protect its interests and may recover the cost of such arrangements as a debt due from the Supplier.
- 38.7 The provisions of any insurance or the amount of cover shall be the Supplier of any liability under this Call Off Contract. It shall be the Supplier to determine the amount of insurance cover and to enable the Supplier to satisfy any liability in relation to its obligations under this Call Off Contract.
- 38.8 The Supplier shall ensure that nothing is done which would enable an insurer to cancel, rescind or suspend any insurance cover or claim as voided in whole or part. The Supplier shall make reasonable endeavours to notify the Customer (subject to its obligations) as soon as practicable when it becomes aware of any circumstance or matter which has caused, or is reasonably likely to, the relevant insurer to give notice to cancel, rescind or suspend insurance, or any cover or claim under any insurance in which the Supplier is involved.

J. REMEDIES AND RELIEF

39. CUSTOMER REMEDIES FOR DEFAULT

39.1 Remedies

- 39.1.1 Without prejudice to any other right or remedy of the Customer arising (including under Call Off Schedule 6 (Service Levels and Performance Monitoring)) and subject to the other provisions in Clauses 13.5 (Service Levels and Service Credits) and 13.6 (Delay Payments), if the Supplier commits any Default under this Contract then the Customer may (whether or not any part of the Goods has been Delivered) do any of the following:
- (a) at the Customer's option, give the Supplier (at the Supplier's expense) to remedy the Default

- (ii) suspend this Call Off Contract in accordance with the provisions of Clause 4.1.1 (Suspension and Partial Supply) and step-in to itself supply or procure a third party to supply (in whole or in part)
- (iii) without terminating or suspending this Contract, terminate or suspend the Contract in respect of part of the product (whereupon the relevant provisions of Clause 4.1 (Partial Termination, Suspension) shall apply) and step-in to itself supply or procure a third party to supply such part of the Good and/or Service

39.1.2 Where the Customer exercises any of its step-in rights under 39.1.1(c)(ii) or 39.1.1(c)(iii), the Customer shall have no liability to the Supplier for and the Supplier shall on demand pay the Customer the costs incurred by the Customer (including any reasonable profit) in respect of the supply of any part of the Services by the Supplier or a third party and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Goods and/or Services.

39.2 Rectification Plan Process

39.2.1 Where the Customer has instructed the Supplier to implement the Rectification Plan Process pursuant to Clause 39.1.1, the Supplier shall:

- (a) the Supplier shall submit a draft Rectification Plan to the Customer for it to review as soon as possible and in any event within 10 Working Days specified in the Order Form or Call Off Contract (or such other period as may be agreed in writing between the Parties) from the date of Customer's instruction. The Supplier shall submit a draft Rectification Plan even if the Supplier is not responsible for the Default giving rise to the instruction of a draft Rectification Plan.
- (b) the draft Rectification Plan shall set out:
 - (i) full details of the Default that has caused the Default and a cause analysis;
 - (ii) the actual or anticipated effect of the Default on the Customer's business;

- (a) is insufficiently detailed to be capable of pr
 - (b) will take too long to complete;
 - (c) will not prevent reoccurrence of the Defau
 - (d) will rectify the Default but in a manner wh
- Customer.

39.2.4 The Customer shall notify the Supplier whether the Rectification Plan as soon as reasonably practicab the draft Rectification Plan, the Customer shall give and the Supplier shall take the reasons into acco revised Rectification Plan. The Supplier shall subm Rectification Plan to the Customer for review within such other period as agreed between the Parties) rejecting the first draft.

39.2.5 If the Customer consents to the Rectification immediately start work on the actions set out in the

40. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE

40.1 If the Supplier has failed to:

- 40.1.1 Achieve a Milestone by its Milestone Date;
 - 40.1.2 provide the Services in accordance with the Service
 - 40.1.3 comply with its obligations under this Call Off Contr
- (each a "Supplier Non-Performance"),

and can demonstrate that the Supplier Non-Performance w for a Customer Cause, then (subject to the Supplier fulfillin 17 (Supplier Notification of Customer Cause)):

- (a) the Supplier shall not be treated as being Contract to the extent the Supplier can der Non-Performance was caused by the Cust
- (b) the Customer shall not be entitled to ex arise as a result of that Supplier Non-Perf Call Off Contract pursuant to Clause 4 Rights) except Clause 4.2.6 (Termination

extent that the Supplier can demonstrate that the Supplier Non-Performance or Critical Service Level Failure was caused by the Customer Cause.

- (d) where the Supplier Non-Performance or Critical Service Level Failure:
 - (i) the Supplier shall not be liable to the Customer for Contract Charges for the Services affected by the Customer Cause;
 - (ii) the Customer shall not be entitled to claim Contract Charges for the Services affected by the Customer Cause (Critical Service Level Failure);
 - (iii) the Supplier shall be entitled to claim Contract Charges for the Services affected by the Customer Cause;
 - (iv) in each case, to the extent that the Customer Cause can be demonstrated to have caused the Supplier Non-Performance or Critical Service Level Failure.

40.2 In order to claim any of the rights and/or relief referred to in Clause 40.1, the Supplier shall:

40.2.1 comply with its obligations under Clause 17 (Notification of Supplier Non-Performance or Critical Service Level Failure) and

40.2.2 within ten (10) Working Days of becoming aware that the Supplier Non-Performance or Critical Service Level Failure has been caused, or is likely to cause, a Supplier Non-Performance or Critical Service Level Failure, provide the Customer with a written notice (a "**Relief Notice**") setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Customer Cause and its effect on the Supplier's obligations under this Call Off Contract; and
- (c) the relief claimed by the Supplier.

40.3 Following the receipt of a Relief Notice, the Customer shall, where practicable, consider the nature of the Supplier Non-Performance or Critical Service Level Failure, the Customer Cause and whether it agrees with the Supplier's Relief Notice as to the effect of the relevant Customer Cause on the Supplier's obligations under this Call Off Contract, and the relief claimed, consulting with the Supplier where necessary.

40.4 Without prejudice to Clauses 8.5 (Continuing obligation to perform) and 8.6 (Dispute resolution), in the event that a Dispute arises as to:

meet its obligations under this Call Off Contract for as long as it is necessary that the performance of those obligations is directly affected by a Force Majeure failure or delay by the Supplier in performing its obligations under this Call Off Contract which results from a failure or delay by an agent, employee or subcontractor, shall be regarded as due to a Force Majeure only if that failure or delay by the supplier is itself impeded by a Force Majeure from completing its obligations to the Supplier.

41.2 The Affected Party shall as soon as reasonably practicable give written Notice, which shall include details of the Force Majeure, its effect on the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

41.3 If the Supplier is the Affected Party, it shall not be entitled to rely on Clause 41 to the extent that consequences of the relevant Force Majeure

41.3.1 are capable of being mitigated by any of the products or services provided, including any BCDR Services, but the Supplier has not taken such steps.

41.3.2 should have been foreseen and prevented or avoided by the Supplier in the provision of services similar to the Services, operating to the same standards as the Call Off Contract.

41.4 Subject to Clause 41.5, as soon as practicable after the occurrence of a Force Majeure Notice, and at regular intervals thereafter, the Parties shall in good faith and use reasonable endeavours to agree any steps to be taken in an appropriate timetable in which those steps should be taken to resume the provision of the Services affected by the Force Majeure.

41.5 The Parties shall at all times following the occurrence of a Force Majeure during its subsistence use their respective reasonable endeavours to mitigate the effects of the Force Majeure. Where the Supplier is the Affected Party it shall take all steps in accordance with Good Industry Practice to minimise the consequences of the Force Majeure.

41.6 Where, as a result of a Force Majeure:

41.6.1 an Affected Party fails to perform its obligations in accordance with this Call Off Contract, then during the continuance of the Force Majeure:

(a) the other Party shall not be entitled to exercise its rights under this Call Off Contract in whole or in part to the extent that the provision of the Services is materially affected by the Force Majeure.

- (ii) to receive Delay Payments pursuant to Clause 14 (Delay Payments) to the extent that the Milestone is affected by the Force Majeure;
 - (iii) to receive Service Credits or with respect to the Call Off Contract Charges pursuant to Clause 14 (Critical Service Level Failure or Critical Service Level Failure or Critical Service Level Failure or Critical Service Level Failure) to the extent that the Service Level Failure or Critical Service Level Failure has been caused by the Force Majeure;
- (b) the Supplier shall be entitled to receive the Call Off Contract Charges (or a proportional payment) to the extent that the Services (or part of the Services) provided in accordance with the terms of the Call Off Contract are not provided during the occurrence of the Force Majeure.

41.7 The Affected Party shall notify the other Party as soon as the Force Majeure ceases or no longer causes the Affected Party to be unable to perform its obligations under this Call Off Contract.

41.8 Relief from liability for the Affected Party under this Clause shall be granted as the Force Majeure no longer causes the Affected Party to be unable to perform its obligations under this Call Off Contract and shall be subject to the serving of notice under Clause 41.7.

K. TERMINATION AND EXIT MANAGEMENT

42. CUSTOMER TERMINATION RIGHTS

42.1 Termination in Relation to Guarantee

42.1.1 Where this Call Off Contract is conditional upon the Call Off Guarantee pursuant to Clause 4 (Call Off Guarantee), the Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where:

- (a) the Call Off Guarantor withdraws the Call Off Guarantee for any reason whatsoever;
- (b) the Call Off Guarantor is in breach or anticipatory breach of the Call Off Guarantee;

Contract by issuing a Termination Notice to the Supplier of:

- (a) being notified in writing that a Change of Control is planned or in contemplation; or
- (b) where no notification has been made, the Supplier becomes aware that a Change of Control is planned or is in contemplation, but shall not be permitted to terminate the Contract unless an Approval was granted prior to the Change of Control.

42.6 Termination Without Cause

42.6.1 The Customer shall have the right to terminate this Contract on the last day of the first six month period of the contract or any subsequent six month period(s) by issuing a Termination Notice to the Supplier giving written notice of at least the number of days for the purposes of this Clause 42.6.1, in the Order Form or any Variation to the Contract.

42.7 Termination in Relation to Framework Agreement

42.7.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.

42.8 Termination In Relation to Benchmarking

42.8.1 The Customer may terminate this Call Off 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 1 and 2 of Clause 10 (Continuous Improvement and Benchmarking).

42.9 Termination in Relation to Variation

42.9.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier for failure of the Parties to implement a Variation in accordance with the Variation.

42.10 Termination for failing to comply with the technical Essentials

42.10.1 Where the Supplier fails to comply with the technical Essentials, the Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier.

- (a) the Customer's failure to pay; and
- (b) the correct overdue and undisputed sum; and
- (c) the reasons why the undisputed sum is due; and
- (d) the requirement on the Customer to remedy the default.

this Call Off Contract shall then terminate on the date of the issue of the Termination Notice (which shall not be less than 14 Days from the date of the issue of the Termination Notice). Such right of termination shall not apply where the Customer is exercising its rights under Clause 23.3 (Retention and Set off).

43.1.2 The Supplier shall not suspend the supply of the Goods or Services to the Customer to pay undisputed sums of money (whether or not such sums are due).

44. TERMINATION BY EITHER PARTY

44.1 Termination for continuing Force Majeure

44.1.1 Either Party may, by issuing a Termination Notice, terminate this Call Off Contract if, in accordance with Clause 23.3 (Retention and Set off) (Force Majeure).

45. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION

45.1 Where the Customer has the right to terminate this Call Off Contract, the Customer shall be entitled to terminate or suspend all or part of this Call Off Contract, always that, if the Customer elects to terminate or suspend all or part of this Call Off Contract, the parts of this Call Off Contract not terminated or suspended shall, in the Customer's reasonable opinion, operate effectively to deliver the Goods and Services of the surviving parts of this Call Off Contract.

45.2 Any suspension of this Call Off Contract under Clause 45.1 shall be for such period as the Customer may specify and without prejudice to any sums already accrued, or subsequently accrues, to the Customer.

45.3 The Parties shall seek to agree the effect of any Variation of this Call Off Contract, termination, suspension or partial suspension in accordance with Clause 23.3 (Retention and Set off) Procedure, including the effect that the partial termination or suspension may have on the provision of any other S

(Termination in Relation to Variation), 42.10 (Termination with the technical requirements of Cyber Essentials)

46.1.1 Where the Customer:

- (a) terminates (in whole or in part) this Call Off Clauses referred to in Clause 46.1; and
- (b) then makes other arrangements for the supply

the Customer may recover from the Supplier the net expenditure incurred of making those other arrangements less the expenditure incurred by the Customer through the Call Off Contract Period provided that the Customer has taken reasonable steps to mitigate such additional costs. Such payments shall be payable by the Customer if the Supplier has established the final cost of those other arrangements.

46.2 Consequences of termination under Clauses 42.6 (Termination without Cause) and 43.1 (Termination on Customer Cause for Failure)

46.2.1 Where:

- (a) the Customer terminates (in whole or in part) this Call Off under Clause 42.6 (Termination without Cause); or
- (b) the Supplier terminates this Call Off Contract under Clause 43.1 (Termination on Customer Cause for Failure)

the Customer shall indemnify the Supplier against its net proven Losses which would otherwise represent the net proven Losses of the Supplier by reason of the termination of this Call Off provided that the Supplier takes all reasonable steps to mitigate its Losses. The Supplier shall submit a fully itemised statement of its Losses, with supporting evidence including supporting invoices. The Customer may require, reasonably and actually incurred, as a result of termination under Clause 42.6 (Termination without Cause) or Clause 43.1 (Termination on Customer Cause for Failure).

46.2.2 The Customer shall not be liable under Clause 46.2.1 if the Supplier's Losses:

- (a) were not claimable under insurance held by the Supplier; or
- (b) the Supplier has failed to make a claim on its insurance policy.

- (a) termination or expiry of this Call Off Contract shall not prejudice to any rights, remedies or obligations of the Customer under the Call Off Contract prior to termination or expiry of this Call Off Contract shall prejudice the right of the Customer to any amount outstanding at the time of such termination.
- (b) termination of this Call Off Contract shall not prejudice to any rights, remedies or obligations of the Customer under the Call Off Contract. Clauses 21 (Records, Audit Access), 22 (Data Protection), 23 (Intellectual Property Rights), 24 (Confidentiality), 24.5 (Freedom of Information) 24.6 (Privacy), 25 (Liability), 26 (Consequences of Breach), 27 (Severance), 28 (Entire Agreement), 29 (Dispute Resolution) and 30 (Governing Law) and the provisions of Call Off Schedule 1 (Call Off Contract Charges, Payment) Call Off Schedule 3 (Call Off Contract Charges, Payment) Call Off Schedule 10 (Exit Management), Call Off Schedule 11 (Contract Transfer), Call Off Schedule 12 (Dispute Resolution) without limitation to the foregoing, any other provisions of the Call Off Contract which expressly or by implication survive notwithstanding termination or expiry of this Call Off Contract until the Call Off Expiry Date.

46.5 Exit management

- 46.5.1 The Parties shall comply with the exit management provisions of Call Off Schedule 10 (Exit Management).

L. MISCELLANEOUS AND GOVERNING LAW

47. COMPLIANCE

47.1 Health and Safety

- 47.1.1 The Supplier shall perform its obligations under the Call Off Contract (including those in relation to the Services) in accordance with:
 - (a) all applicable Law regarding health and safety
 - (b) the Customer's health and safety policy (as amended from time to time) whilst at the Customer's Premises

- (i) all applicable equality Law (whether gender reassignment, religious or sexual orientation, pregnancy or otherwise); and
 - (ii) any other requirements and Customer reasonably imposed equality obligations imposed at any time under applicable equality Law.
- (b) take all necessary steps, and inform the Customer, to prevent unlawful discrimination designated by a court or tribunal, or the Equality and Human Rights Commission or its successor organisation).

47.3 Official Secrets Act and Finance Act

47.3.1 The Supplier shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

47.4 Environmental Requirements

47.4.1 The Supplier shall, when working on the Sites, perform its obligations under this Call Off Contract in accordance with the Environmental Protection Act 1990 as amended by the Customer.

47.4.2 The Customer shall provide a copy of its written Environmental Protection Policy to the Supplier upon the Supplier's written request.

48. ASSIGNMENT AND NOVATION

48.1 The Supplier shall not assign, novate, Sub-Contract or otherwise create any trust in relation to any or all of its rights, obligations or liabilities under this Call Off Contract or any part of it without Approval.

48.2 The Customer may assign, novate or otherwise dispose of its rights, obligations and liabilities under this Call Off Contract or any part of it to:

48.2.1 any other Contracting Body; or

48.2.2 any other body established by the Crown or otherwise for the purpose of substantially to perform any of the functions

Supplier in the event of insolvency of the Transferee (as if in Clause 42.4 (Termination on Insolvency) and to Supplier or Call Off Guarantor in the definition of Insolvency Event (Transferee)).

49. WAIVER AND CUMULATIVE REMEDIES

- 49.1 The rights and remedies under this Call Off Contract may be waived in accordance with Clause 56 (Notices) and in a manner that a waiver is intended. A failure or delay by a Party in ascertaining a right or remedy provided under this Call Off Contract or by a Party in waiving that right or remedy, nor shall it prevent or restrict the availability of that right or remedy, nor shall it prevent or restrict the availability of any other right or remedy provided by Law, inequity or otherwise.
- 49.2 Unless otherwise provided in this Call Off Contract, rights and remedies under this Call Off Contract are cumulative and do not exclude any rights or remedies provided by Law, inequity or otherwise.

50. RELATIONSHIP OF THE PARTIES

- 50.1 Except as expressly provided otherwise in this Call Off Contract, no relationship created by this Call Off Contract, nor any actions taken by the Parties under this Call Off Contract, shall create a partnership, joint venture or relationship of employee or principal and agent between the Parties, or shall constitute or make representations or enter into any commitments for or on behalf of any Party.

51. PREVENTION OF FRAUD AND BRIBERY

- 51.1 The Supplier represents and warrants that neither it nor any of its Supplier Personnel, have at any time prior to the Commencement Date:
- 51.1.1 committed a Prohibited Act or been formally notified of an investigation or prosecution which relates to an alleged Prohibited Act;
 - 51.1.2 been listed by any government department or agency as being suspended, proposed for suspension or debarment from participation in government procurement programs on the grounds of a Prohibited Act.

- 51.2 The Supplier shall not during the Call Off Contract Period

- 51.3.3 if so required by the Customer, within twenty (20) Off Commencement Date, and annually thereafter, writing of the Supplier and all persons associated with or other persons who are supplying the Services in Off Contract. The Supplier shall provide such compliance as the Customer may reasonably require.
- 51.3.4 have, maintain and where appropriate enforce and shall be disclosed to the Customer on request) to Personnel or any person acting on the Supplier's Prohibited Act.
- 51.4 The Supplier shall immediately notify the Customer in writing of any breach of Clause 51.1, or has reason to believe Supplier Personnel have:
 - 51.4.1 been subject to an investigation or prosecution with Prohibited Act;
 - 51.4.2 been listed by any government department or agency suspended, proposed for suspension or debarment participation in government procurement program grounds of a Prohibited Act; and/or
 - 51.4.3 received a request or demand for any undue financial any kind in connection with the performance of otherwise suspects that any person or Party directed with this Call Off Contract has committed or attempted Act.
- 51.5 If the Supplier makes a notification to the Customer pursuant Supplier shall respond promptly to the Customer's enquiry investigation, and allow the Customer to audit any books relevant documentation in accordance with Clause 21 (Right Open Book Data).
- 51.6 If the Supplier breaches Clause 51.3, the Customer may:
 - 51.6.1 require the Supplier to remove from performance of Supplier Personnel whose acts or omissions have breach; or
 - 51.6.2 immediately terminate this Call Off Contract for material

alters the balance of risks and rewards in this Call Off Contract, the Party giving notice to the other Party requiring the Parties to comment on the proposed amendments to amend this Call Off Contract so that, as amended, it preserves the balance of risks and rewards in this Call Off Contract and that is reasonably practicable, achieves the Parties' original intent.

52.3 If the Parties are unable to resolve the Dispute arising under this Call Off Contract within twenty (20) Working Days of the date of the notice given under this Clause 52.3, this Call Off Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall. This Clause 52.3 is terminated pursuant to this Clause 52.

53. FURTHER ASSURANCES

53.1 Each Party undertakes at the request of the other, and a Party shall be entitled to require the other Party to do all acts and execute all documents which may be required in order to give effect to the meaning of this Call Off Contract.

54. ENTIRE AGREEMENT

54.1 This Call Off Contract and the documents referred to in this Clause 54.1 constitute the entire agreement between the Parties in respect of the matters referred to in this Call Off Contract and extinguishes all prior negotiations, course of dealings or agreements between the Parties in relation to its subject matter, whether written or oral.

54.2 Neither Party has been given, nor entered into this Call Off Contract, any warranty, statement, promise or representation other than those set out in this Call Off Contract.

54.3 Nothing in this Clause 54 shall exclude any liability in respect of any fraud or fraudulently made.

55. THIRD PARTY RIGHTS

55.1 The provisions of paragraphs 2.1 and 2.6 of Part A, paragraphs 2.1 and 2.3 of Part B, paragraphs 2.1 and 2.3 of Part C and paragraphs 2.1 and 2.3 of Part D of Call Off Schedule 11 (Staff Transfer) and the provisions of paragraphs 2.1 and 2.3 of Part D of Call Off Schedule 10 (Exit Management) (together "Third Party Rights") and the benefits on persons named in such provisions other than the person named in such provisions as a "Third Party Beneficiary" and are intended to

56. NOTICES

56.1 Except as otherwise expressly provided within this Call Off Contract, all notices sent under this Call Off Contract must be in writing. For the purposes of Clause 56, an e-mail is accepted as being "in writing".

56.2 Subject to Clause 56.3, the following table sets out the manner in which notices may be served under this Call Off Contract and the respective time of proof of service:

Manner of Delivery	Deemed time of delivery	Proof of service
Email (Subject to Clauses 56.3 and 56.4)	9.00am on the first Working Day after sending	Delivery at the time of sending
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day	Proof of delivery signed by the recipient
Royal Mail Signed For™ 1 st Class or other prepaid, next Working Day service providing proof of delivery	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm)	Proof of delivery provided by the service

56.3 The following notices may only be served as an alternative to the methods set out in the table above:

of delivery of the original notice sent by personal delivery or by 1st Class delivery (as set out in the table in Clause 56.2) and a response or acknowledgement by the other Party to the effect of the notice.

56.5 This Clause 56 does not apply to the service of a document in any legal action or, where applicable, any other form of dispute resolution (other than the service of a Dispute Resolution Procedure).

56.6 For the purposes of this Clause 56, the address and email address shall be the address and email address set out in the Order.

57. DISPUTE RESOLUTION

57.1 The Parties shall resolve Disputes arising out of or in connection with this Contract in accordance with the Dispute Resolution Procedure.

57.2 The Supplier shall continue to provide the Services in accordance with this Call Off Contract until a Dispute has been resolved.

58. GOVERNING LAW AND JURISDICTION

58.1 This Call Off Contract and any issues, Disputes or claims (whether contractual or non-contractual) arising out of or in connection with it shall be governed by and construed in accordance with the law of England and Wales.

58.2 Subject to Clause 57 (Dispute Resolution) and Clause 58.1 (Dispute Resolution Procedure) (including the Customer's right to refer a Dispute to arbitration), the Parties agree that the courts of England and Wales have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Call Off Contract matter or formation.

CALL OFF SCHEDULE 1: DEFINITIONS

1. In accordance with Clause 1 (Definitions and Interpretation) including its recitals the following expressions shall have the following meanings:

"Achieve"	means in respect of a Milestone has been completed by the Customer "Achieving" and "Achiever" accordingly;
"Acquired Rights Directive"	means the European Council Directive of 1977 on the approximation of laws, regulations, and administrative provisions relating to the safeguarding of employees in the event of transfers of undertakings, businesses, or parts of businesses, from time to time;
"Additional Clauses"	means the additional Clauses (Alternative and/or Additional Clauses) set out in this Call Off Contract;
"Affected Party"	means the party seeking to claim Force Majeure;
"Affiliates"	means in relation to a body which directly or indirectly Controls under direct or indirect control and corporate from time to time;
"Alternative Clauses"	means the alternative Clauses (Alternative and/or Additional Clauses) set out elsewhere in this Call Off Contract;
"Approval"	means the prior written consent of the Customer "Approve" and "Approver" accordingly;
"Approved Sub-Licensee"	means any of the following: <ul style="list-style-type: none"> a) a Central Government

	<p>d) HM Treasury or the Cab</p> <p>e) any party formally appoi carry out audit or similar</p> <p>f) successors or assigns o</p>
"Authority"	means THE MINISTER FOR ("Cabinet Office") as represe Service, a trading fund of offices are located at 9th F Street, Liverpool L3 9PP;
"BCDR Plan"	means the plan prepared purs Off Schedule 9 (Business Recovery), as may be amend
"BCDR Services"	means the Business Continui Recovery Services;
"Business Continuity Services"	has the meaning given to Reference source not found (Business Continuity and Disa
"Call Off Agreement"	means a legally binding agree to the provisions of the Fran provision of the Services ma Body and the Supplier pursua 5 (Call Off Procedure);
"Call Off Commencement Date"	means the date of commence Contract set out in paragraph
"Call Off Contract"	means this contract betwee Supplier (entered into pursua Framework Agreement) consi the Call Off Terms;
"Call Off Contract Charges"	means the prices (inclusive o and exclusive of any applica Supplier by the Customer und set out in Annex 1 of Call Off S

	b) if this Call Off Contract is specified in (a) above, the end date of this Call Off Contract;
"Call Off Extension Period"	means the extension term of this Call Off Contract to the end date of the Call Off Contract plus the extension period stated in the Order Form;
"Call Off Guarantee"	means a deed of guarantee in favour of the Customer under this Call Off Contract in favour of the Customer as set out in Framework Schedule 1, as amended, pursuant to Clause 7 (Call Off Guarantees);
"Call Off Guarantor"	means the person, in the event of a default, who is required under this Call Off Contract to provide the Customer to give a Call Off Guarantee;
"Call Off Initial Period"	means the initial term of this Call Off Contract from the Call Off Commencement Date to the end of the term stated in the Order Form;
"Call Off Schedule"	means a schedule to this Call Off Contract;
"Call Off Terms"	means these terms and conditions (excluding the Order Form) in relation to the Services, together with the Framework Schedule 1, as amended;
"Central Government Body"	means a body listed in one of the categories of the Central Government Sector Classification Guide, as amended, from time to time by the Office of Government Organisations; <ul style="list-style-type: none"> a) Government Department; b) Non-Departmental Public Body (including a Tribunal or Sponsored Public Body or Tribunal); c) Non-Ministerial Department; d) Executive Agency;
"Change in Law"	means any change in Law which affects the Services and performance of the Services;

"Commercially Sensitive Information"	means the Confidential information in the Confidential Information Form (if any) comprising or consisting of information relating to the Supply or which the Supplier has indicated that it would not disclose if disclosed by the Customer, or which, if disclosed, would result in a significant commercial disadvantage or financial loss;
"Comparable Supply"	means the supply of Services by the Supplier that are the same or similar to those supplied by the Supplier to other Customers;
"Compensation for Critical Service Level Failure"	has the meaning given to it in the Framework Service Level Failure Compensation Policy (the "Service Level Failure");
"Confidential Information"	means the Customer's Confidential Information and the Supplier's Confidential Information as defined in the Framework Service Level Failure Policy; specifies;
"Continuous Improvement Plan"	means a plan for improving the Supplier's performance and/or reducing the Charges payable by the Customer pursuant to Framework Service Level Failure Policy, Continuous Improvement and Benchmarking Policy;
"Contracting Body"	means the Authority, the Customer or any other body listed in paragraph VI.3 of the Framework Service Level Failure Policy;
"Control"	means control as defined in section 873 of the Corporation Tax Act 2010 and shall be interpreted accordingly;
"Conviction"	means other than for minor offences, a conviction or previous or pending prosecution or a court order or binding over order (including a court order as contemplated by section 1(2) of the Criminal Offenders Act 1974 by virtue of section 1(2) of the Offenders Act 1974 in Part II of Schedule 1 of the Criminal Justice Act 1974 (Exemptions) Order 1974) or a replacement or amendment to a court order or a list on a list kept pursuant to section 1(2) of the Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable

	<ul style="list-style-type: none"> vi) staff training; vii) work place accommodation; viii) work place IT equipment necessary to provide the Service including items including but not limited to and ix) reasonable recruitment costs for the Customer; <p>b) costs incurred in respect of the Service which are detailed on the Schedule which shall be treated as capital costs for the purposes of accepted accounting practice. Such costs shall include the cost to the Supplier of the Supplier Assets by the Supplier (to the extent that risk and responsibility for the Supplier Assets is not held by the Supplier) and the costs incurred by the Supplier in respect of the Service;</p> <p>c) operational costs which are incurred in respect of the Service or (b) above, to the extent that such costs are necessary and properly incurred in the course of the provision of the Service;</p> <p>but excluding:</p> <ul style="list-style-type: none"> a) Overhead; b) financing or similar costs; c) maintenance and support costs to the extent that these relate to maintenance and support services provided beyond the scope of the Service, whether in relation to Supplier Assets or otherwise; d) taxation; e) fines and penalties; f) amounts payable under any contract entered into by the Supplier in connection with the provision of the Service;
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	persons, commissions or agents carrying out functions on its behalf;
"Crown Body"	means any department, office or agency of the Crown;
"CRTPA"	means the Contracts (Rights and Interests) Tribunal Act 2008;
"Customer"	means the customer(s) identified in the Call Off Contract;
"Customer Assets"	means the Customer's intellectual property, materials, assets, equipment and/or licensed or leased to the Supplier which may be used in connection with the Services;
"Customer Background IPR"	means: <ul style="list-style-type: none"> a) IPRs owned by the Customer as of the Commencement Date, including any of the Customer's software, processes and procedures; b) IPRs created by the Customer in connection with the Call Off Contract; and/or c) Crown Copyright which is not owned by the Supplier otherwise than in connection with the Services;
"Customer Cause"	means any breach of the obligations of the Customer under any other default, act, omission or negligence of the Customer, of its employees or agents in connection with or in relation to the Call Off Contract and in respect of which the Customer is liable to the Supplier;
"Customer Data"	means: <ul style="list-style-type: none"> a) the data, text, drawings, images, audio or video files, (together with any databases or files) which are embodied in any optical or tangible medium and which constitute Confidential Information;

	Supplier by the Customer in o Contract;
"Customer Representative"	means the representative app time to time in relation to this
"Customer Responsibilities"	means the responsibilities of Part B of Call Off Schedu Customer Responsibilities an other responsibilities of the Cu agreed in writing between the connection with this Call Off C
"Customer's Confidential Information"	means: a) all Personal Data and a conveyed, that relates developments, property How and IPR of the Customer Background II b) any other information c confidential (whether "confidential") or whi considered confidential to the Customer's atten possession in connectio and c) information derived from
"Cyber Essentials"	means one of the two levels o available under the Cyber Ess certification is awarded on the assessment and further inform https://www.gov.uk/government/essential-scheme-overview ;
"Cyber Essentials Data"	means sensitive and perso relevant information as referre Scheme;
	means one of the two lev

	<p>risk from common internet based Cyber Essentials scheme can be found at https://www.gov.uk/government/publications/cyber-essentials-scheme-overview;</p>
"Data Controller"	has the meaning given to it in the Data Protection Act 2018 as amended from time to time;
"Data Processor"	has the meaning given to it in the Data Protection Act 2018 as amended from time to time;
"Data Protection Legislation" or "DPA"	means the Data Protection Act 2018 and regulations relating to processing of personal data, privacy, including where applicable codes of practice issued by the Information Commissioner or relevant Government department or legislation;
"Data Subject"	has the meaning given to it in the Data Protection Act 2018 as amended from time to time;
"Data Subject Access Request"	means a request made by a Data Subject with rights granted pursuant to the Data Protection Act 2018 to access Personal Data;
"Deductions"	means all Service Credits, Dues and other amounts due by the Customer in deduction which the Customer has agreed to pay under this Call Off Contract;
"Default"	means any breach of the terms of the Call Off Contract (including but not limited to in breach of the Call Off Contract in breach of the terms of the Call Off Contract (including material Default) attributable to negligence or statement of Default by the Contractor or any Supplier or Contractor in connection with or in relation to the performance of the Call Off Contract and in respect of which the Contractor is liable to the Customer;
"Delay"	<p>means:</p> <p>a) a delay in the Achievement of the Key Performance Indicators;</p>

	at any other stage during the Contract;
"Delivery"	means, in respect of Services, that the Services have been provided and accepted by the Customer. "Delivered" shall be construed accordingly.
"Disaster"	means the occurrence of one or more events, separately or cumulatively, none of which, in a material part thereof will reasonably be anticipated to be specified in the Order Form or Contract (for the purposes of Period)
"Disaster Recovery Services"	means the services embodied in the procedures for restoring the performance of the Contract after the occurrence of a Disaster, as set out in Schedule 9 (Business Continuity).
"Disclosing Party"	has the meaning given in Schedule 10 (Confidentiality);
"Dispute"	means any dispute, difference or disagreement arising out of or in connection with the Contract, including any dispute, difference or disagreement in interpretation relating to the Contract, in accordance with the Variations, where this Call Off Contract refers to an issue by reference to the Dispute Resolution Procedure.
"Dispute Notice"	means a written notice served by a Party stating that the Party serving the notice considers that the Dispute Resolution Procedure is a Dispute;
"Dispute Resolution Procedure"	means the dispute resolution procedure set out in Schedule 12 (Dispute Resolution).
"Documentation"	means all documentation as: <ul style="list-style-type: none"> a) is required to be supplied by the Customer under this Contract;

	<p>proposals within set time limits Finance Act 2004 and in securities contained in Part 7 of the extended to national insurance National Insurance Contributions (the Finance Act 2004) Regulations made under section 132A Administration Act 1992;</p>
<p>"Due Diligence Information"</p>	<p>means any information supplied on behalf of the Customer from the Commencement Date;</p>
<p>"Employee Liabilities"</p>	<p>means all claims, actions, proceedings, complaints, investigations (save for injury which are covered by compensation, damages, tribunal award, penalty, disbursement, payment, settlement and costs, expenses incurred in connection with the following including in relation to the following:</p> <ul style="list-style-type: none"> a) redundancy payments and enhanced redundancy notice payments; b) unfair, wrongful or constructive dismissal or compensation; c) compensation for discrimination on grounds of race, disability, age, sex, pregnancy and maternity, reassignment, marriage, civil partnership, pregnancy and maternity claims for equal pay; d) compensation for less favourable treatment of part-time workers or fixed term employees; e) outstanding debts and liabilities including any PAYE and National Insurance Contributions in relation to the Customer or the Revenue;

	or replaced or any other Regulatory Acquired Rights Directive;
"Environmental Information Regulations or EIRs"	means to conserve energy, water resources, reduce waste and depleting substances and greenhouse gases, volatile organic substances damaging to health including any written environmental
"Environmental Policy"	means the Environmental Information together with any guidance and by the Information Commissioner department in relation to such
"Estimated Year 1 Call Off Contract Charges"	means the sum in pounds estimated payable by it to the Supplier and Contract Charges from the Call Off until the end of the first Call Off the Order Form or elsewhere
"Expedited Dispute Timetable"	means the timetable set out in (Dispute Resolution Procedure)
"FOIA"	means the Freedom of Information subordinate legislation made at the time together with any guidance issued by the Information Commissioner government department in relation
"Force Majeure"	means any event, occurrence or cause affecting the performance of the Supplier of its obligations <ul style="list-style-type: none"> a) acts, events, omissions or happenings beyond the control of the Affected Party which prevent the Affected Party from performing this Call Off Contract; b) riots, civil commotion, war, terrorism, nuclear, biological

	neglect or failure to against it by the Par iii) any failure of delay o
"Force Majeure Notice"	means a written notice served other Party stating that the there is a Force Majeure;
"Former Supplier"	means a supplier supplying before the Relevant Transfer substantially similar to the S Services) and shall include supplier (or any sub-contracto
"Framework Agreement"	means the framework agreem and the Supplier referred to in
"Framework Commencement Date"	means the date of comm Agreement as stated in (Definitions);
"Framework Period"	means the period from the Date until the expiry or earlier Agreement;
"Framework Price(s)"	means the price(s) applicab Services set out in Framework Prices and Charging Structure
"Framework Schedule"	means a schedule to the Fran
"Fraud"	means any offence under an respect of fraudulent acts (inc Act 1967) or at common law including acts of forgery;
"Further Competition Procedure"	means the award procedure o Framework Schedule 5 (Call
"General Anti-Abuse Rule"	means (a) the legislation in Pa and; and (b) any future parliament to complement t

	the Scottish Executive and Wales), including government departments and other bodies and agencies from time to time on its behalf;
"Halifax Abuse Principle"	means the principle explained in Halifax and others;
"HMRC"	means Her Majesty's Revenue and Customs;
"Holding Company"	has the meaning given to it in section 1173 of the Companies Act 2006;
"ICT Policy"	means the Customer's ICT policy in force on the Commencement Date (a copy of which is provided to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	has the meaning given to it in section 1173 of the Companies Act 2006 and the Variation Procedure;
"Implementation Plan"	means the plan set out in the Variation Procedure;
"Information"	has the meaning given to it under section 1 of the Freedom of Information Act 2000;
"Insolvency Event"	means, in respect of the Supplier or Call Off Guarantor (as applicable), any of the following: <ul style="list-style-type: none"> a) a proposal is made for a voluntary arrangement under Part I of the Insolvency Act 1986, a composition scheme or a deed of assignment for the benefit of creditors; b) a shareholders' meeting is held for the purpose of considering a resolution for the winding up of the Supplier or Call Off Guarantor, or a resolution for its winding up as part of, and exclusively for the purpose of, a reconstruction or amalgamation;

	<ul style="list-style-type: none"> f) it is or becomes insolvent under section 123 of the Insolvency Act 1986; g) being a "small company" under section 382(3) of the Companies Act 2006 and a moratorium comes into effect under Part A1 of the Insolvency Act 2003; h) where the Supplier or the Off Guarantor is an individual and an event analogous to the event (inclusive) occurs in relation to a partnership; or i) any event analogous to the event (inclusive) occurs under the law of any jurisdiction;
"Intellectual Property Rights" or "IPR"	<p>means</p> <ul style="list-style-type: none"> a) copyright, rights related to copyright, rights similar to copyright, rights in inventions, rights in designs, rights in trade marks, rights in confidential information and website addresses, business names, design rights and other rights in Confidential Information; b) applications for registration, rights of registration, registration, for any of the above capable of being registered under the law of any jurisdiction; and c) all other rights having effect in any country or jurisdiction.
"IPR Claim"	<p>means any claim of infringement (including the defence of secondary infringement) of any IPR, use of any IPR as otherwise provided and/or any claim to which the Supplier has provided in the fulfilment of its obligations.</p>

	<p>b) which, in the opinion of the Customer, performs (or performs a critical role in the provision of) the Services; and/or</p> <p>c) with a Sub-Contract with a value at the time of appointment exceeding (or expected to exceed) 10% of the Charges forecast to be payable under the Contract;</p>
"Know -How"	means all ideas, concepts, information, knowledge, techniques, methods, processes, know-how, and other confidential information, of whatever nature of know-how regardless of whether already in the possession or control of the Customer before the Call Offer;
"Law"	means any law, subordinate legislation, regulation, or other enforceable right within the member states of the European Communities Act 1972, or any regulatory policy, mandatory provision, or judgment of a relevant court of law, or any requirements with which the Service Provider is bound to comply;
"Losses"	means all losses, liabilities, damages, costs, expenses (including legal fees), investigation, litigation, settlements, penalties whether arising from negligence), breach of statutory duty, or otherwise, and " Loss " shall be construed accordingly;
"Man Day"	means 7.5 Man Hours, whether or not worked consecutively and whether or not on the same day;
"Man Hours"	means the hours spent by the Service Provider working on the provision of the Services, including time spent travelling (other than between the Service Provider's offices, or to and from the Service Provider's offices) and breaks;

	<p>a) any tax return of the Supplier submitted to the Tax Authority on or after the date of the Call Off Contract or found on or after 1 April 2012, which is the result of:</p> <ul style="list-style-type: none"> i) a Relevant Tax Authority ruling that the Supplier under the Call Off Contract or the Halifax Abuse Rule or the Halifax Abuse Rules or legislation in effect equivalent or similar to the Halifax Abuse Rule or the Halifax Abuse Rules ii) the failure of an applicable tax authority where the Supplier was involved to issue a ruling that should have been, in the absence of the Tax Authority under DC 1000, in a similar regime in any other jurisdiction <p>b) any tax return of the Supplier submitted to the Tax Authority on or after the date of the Call Off Contract or rise, on or after 1 April 2012, which is the result of the Supplier in any jurisdiction for tax purposes that was spent at the Call Off Contract or the Halifax Abuse Rule or the Halifax Abuse Rules or a penalty for fraud or evasion</p>
<p>"Open Book Data "</p>	<p>means complete and accurate information which is sufficient to enable the Supplier to verify the Call Off Contract and the Call Off Contract payable and Call Off Contract during the remainder of this contract. It includes the following details and all assumptions relevant to the calculation of:</p> <ul style="list-style-type: none"> a) the Supplier's Costs for the provision of the Services and/or Deliverables, including direct expenditure (including capital expenditure) b) operating expenditure relating to the provision of the Services including an allowance for the following: <ul style="list-style-type: none"> i) the unit costs and costs of the Services ii) manpower resources

	<p>more onerous than such by the Supplier;</p> <p>g) an explanation of the contingencies associated with the Services, including the amount of each risk and/or contingency;</p> <p>h) the actual Costs profile</p>
"Order"	means the order for the provision of the Services under the Framework Agreement and under the Contract;
"Order Form"	means the form, as completed by the Customer, in relation to the Off Contract, which contains the description of the Services, together with other information in relation to the Services, without limitation the description of the Services supplied;
"Other Supplier"	means any supplier to the Supplier (including the Supplier) which is notified to the Customer and/or of which the Supplier is notified;
"Overhead"	means those amounts which are incurred by the Supplier (or a proportion of the Supplier's overheads (in the context requires) indirect costs (including but not limited to financing, marketing, advertising, development and insurance costs and penalties) but excluding the costs of facilities and accommodation of Supplier Personnel and accommodation of the Supplier (a) of the definition of "Costs"
"Parent Company"	means any company which is a subsidiary of the Supplier and which is directly or indirectly for the benefit of the Supplier or which is engaged in the business of the Supplier. The "Parent Company" shall have the meaning ascribed to it in the Companies Act 2006 or any other applicable law.

	Questionnaire issued by expressions "Restricted Process Questionnaire" shall have the Regulations;
"Processing"	has the meaning given to Legislation but, for the purposes shall include both manual and "Process" and "Processes" accordingly;
"Prohibited Act"	means any of the following: <ul style="list-style-type: none"> a) to directly or indirectly person working for or and/or the Authority or other public body a financial <ul style="list-style-type: none"> i) induce that person relevant function or ii) reward that person for relevant function or b) to directly or indirectly accept any financial inducement or a reward a relevant function or a Agreement; c) committing any offence: <ul style="list-style-type: none"> i) under the Bribery Act repealed or revoked ii) under legislation on fraudulent acts; or iii) defrauding, attempting to defraud the Customer iv) any activity, practice constitute one of the above if such activity

"Recipient"	has the meaning given to it in the Order Form (Confidentiality);
"Rectification Plan"	means the rectification plan provided in the Order Form Plan Process;
"Rectification Plan Process"	means the process set out in the Order Form Plan Process);
"Registers"	has the meaning given to it in the Order Form (Management);
"Regulations"	means the Public Contracts Regulations 2015 (the Public Contracts (Scotland) Regulations 2015 in that context requires) as amended from time to time;
"Related Supplier"	means any person who provides Services which are related to the Services provided under the Order Form;
"Relevant Conviction"	means a Conviction that is relevant to the Services to be provided or as defined in the Order Form or elsewhere;
"Relevant Requirements"	means all applicable Law relating to fraud, including the Bribery Act 2010, issued by the Secretary of State under section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	means a transfer of employment to which the Regulations applies;
"Relevant Transfer Date"	means, in relation to a Relevant Transfer, the date on which the Relevant Transfer takes effect;
"Relief Notice"	has the meaning given to it in the Order Form (Relief Due to Customer Causes);
"Replacement Services"	means any services which are provided in substitution for any of the Services and which are provided on or after the Expiry Date, whether those services are provided by the Supplier or any other person;

"Restricted Countries"	has the meaning given to it in the Call Off Schedule 6 (Service Level Performance Monitoring) (Personal Data);
"Security Management Plan"	means the Supplier's security management plan pursuant to paragraph 6.1 of the Call Off Schedule 6 (Service Level Performance Monitoring) found. of Call Off Schedule 6 (Service Level Performance Monitoring) has been provided by the Supplier in accordance with paragraph 6.1 of the Call Off Schedule 6 (Service Level Performance Monitoring) found. of Call Off Schedule 6 (Service Level Performance Monitoring) from time to time;
"Security Policy"	means the Customer's security policy as of the Call Off Commencement Date (as notified to the Supplier), as updated from time to time and notified to the Supplier;
"Security Policy Framework"	the HMG Security Policy Framework, available at https://www.gov.uk/government/uploads/attachment_data/file/255910/Security-Policy-Framework_V11.0.pdf ;
"Service Credit Cap"	has the meaning given to it in the Call Off Schedule 6 (Service Level Performance Monitoring) (Service Credits);
"Service Credits"	means any service credits specified in the Call Off Schedule 6 (Service Level Performance Monitoring) being provided to the Customer in respect of a Service Level Measure to meet one or more Service Level Measures;
"Service Failure"	means an unplanned failure in the provision of the Services, or a failure in the provision of the Services or a failure in the provision of the Services in the Call Off Schedule 6 (Service Level Performance Monitoring) (Service Level Failure);
"Service Level Failure"	means a failure to meet the Service Level Measure in respect of a Service Level Criterion;
"Service Level Performance Criteria"	has the meaning given to it in the Call Off Schedule 6 (Service Level Performance Monitoring) (Service Level Performance Criteria);

"Service Period"	has the meaning given to it in Schedule 6 (Service Level Performance Monitoring);
"Service Transfer"	means any transfer of the Services), for whatever reason, from a Sub-Contractor to a Replacement Sub-Contractor;
"Service Transfer Date"	means the date of a Service Transfer;
"Services"	means the services to be provided to the Customer as referred to in Annex 1 (Services);
"Sites"	<p>means:</p> <ul style="list-style-type: none"> a) any premises (including the Supplier's premises or those of a Sub-Contractor) from, to or at which: <ul style="list-style-type: none"> i) the Services are provided; ii) the Supplier manages or directs the provision of the Services.
"Specific Change in Law"	means a Change in Law that affects the business of the Customer and is not a Comparable Supply;
"Staffing Information"	has the meaning given to it in Schedule 6 (Transfer);
"Standards"	<p>means any:</p> <ul style="list-style-type: none"> a) standards published by a national or international standards body (including the International Organisation for Standardisation or other reputable or equivalent successor bodies) that apply to the operator in the same territory;

	necessary for the provision thereof or necessary for the control of the provision of the
"Sub-Contractor"	means any third party engaged by any Key Sub-Contractor, from the Contract permitted pursuant to and this Call Off Contract or its third party with whom that the Contract or its servants or agents
"Supplier"	means the person, firm or company the Customer enters into this Call Off the Order Form;
"Supplier Assets"	means all assets and rights used in the Services in accordance with excluding the Customer Assets
"Supplier Background IPR"	means <ul style="list-style-type: none"> a) Intellectual Property Rights before the Call Off for example those subsisting in development tools, program code used in computer programs or electronic media containing or generic business methods b) Intellectual Property Rights independently of this Call Off
"Supplier Personnel"	means all directors, officers, consultants and contractors of the Sub-Contractor engaged in the Supplier's obligations under the
"Supplier Equipment"	means the Supplier's hardware devices, equipment, plant, machinery supplied and used by the Supplier (loaned from the Customer) in the obligations under this Call Off

"Supplier Representative"	means the representative appointed in the Order Form;
"Supplier's Confidential Information"	<p>means</p> <ul style="list-style-type: none"> a) any information, however obtained, relating to the business, affairs or operations of the Supplier (including the Supplier's trade secrets, Know-How or Confidential Information of the Supplier); b) any other information of a confidential nature (whether or not "confidential") or which is or should be considered to be confidential (whether or not it has come) to the Supplier's possession in connection with the Contract; c) information derived from
"Template Call Off Terms"	means the template terms and conditions set out in Framework Schedule 4 (Template Call Off Terms);
"Template Order Form"	means the template order form set out in Framework Schedule 4 (Template Order Form Terms);
"Tender"	means the tender submitted by the Supplier to the Customer and annexed to the Contract in Framework Schedule 20;
"Termination Notice"	means 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 the Contract on a specified date for termination;
"Third Party IPR"	means Intellectual Property Rights of a Third Party which is or will be used by the Supplier in connection with providing the Services;

"Variation Form"	means the form set out in Cal Form);
"Variation Procedure"	means the procedure set out Procedure);
"VAT"	means value added tax in accordance of the Value Added Tax Act 1
"Worker"	means any one of the Supplier Customer, in its reasonable of individual to which Procurement Arrangements of https://www.gov.uk/government/policy-note-07-12-tax-arrange applies in respect of the Servi
"Working Day"	means any Day other than a S holiday in England and Wales

CALL OFF SCHEDULE 2: SERVICES

1. INTRODUCTION

1.1 This Call Off Schedule specifies the:

1.1.1 Services to be provided under this Call Off Contract
B – Statement of Requirements

1.1.2 The Suppliers Proposal to provide the services re
Statement of Requirements

ANNEX 1: THE SERVICES

1. The Services

1.1 The Customer utilises a range of news and non-news me
evaluation and quick, reliable and flexible social media m
understanding the effectiveness of the Customer's comm

1.2 The Customer requires a social media monitoring tool
“framework schedule 2: services and key performance in
to the media monitoring and evaluation and related se
(fs2) to be made available for a period of up to two year
year with the option to extend for a further period of
reserves the right to not invoke the extension which
approval). The purpose of the contract is to increase the
capacity to listen, inform and respond to social media
period of increased activity.

1.3 The Customer requires a social media listening platform
to collect online conversations based on both simple and
(using a wide variety of Boolean operators, such as pro
“~”) and wildcards), that is able to provide some
information through the analysis of conversations captu

1.4 Covered sources should include twitter (ideally full fireho
forums, blogs, and news sites; while Flickr, Pinterest
desirable.

- 1.11 The Supplier shall support Customer to develop lists as supporting/giving advice to the Customer in developing emerging situations.
- 1.12 The Customer requires training to be delivered to its full benefit to be derived from the tool's functionality and service.

2. The Supplier Proposal REDACTED

CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES AND INVOICING

1. DEFINITIONS

1.1 The following terms used in this Call Off Schedule shall have the following meanings:

"Review Adjustment Date"	has the meaning given to this Call Off Schedule;
"Supporting Documentation"	means sufficient information provided to the Customer to reasonably justify the Call Off contract Charges from the Customer under the terms of the information detailed in the information.

2. GENERAL PROVISIONS

2.1 This Call Off Schedule details:

- 2.1.1 the Call Off Contract Charges for the Services under the Call Off Contract and
- 2.1.2 the payment terms/profile for the Call Off Contract
- 2.1.3 the invoicing procedure; and
- 2.1.4 the procedure applicable to any adjustments of the Call Off Contract

3. CALL OFF CONTRACT CHARGES

3.1 The Call Off Contract Charges which are applicable to this Call Off Schedule are set out in Annex 1 of this Call Off Schedule. The supplier may increase the level of service payment falling due from the customer on the first day of each six-month period of the contract. Any subsequent increase in the level of service required by the customer and agreed by the supplier within each 3-month period will be charged to the customer with the monthly charges set out in Annex 1 and invoice. The customer shall make pre-payment already made for the relevant period. The customer shall have the right to select the level of service required of each six months period.

can in no event exceed the Framework Prices set out in Schedule 3 (Framework Prices and Charging Structure).

3.2.2 subject to paragraph 6 of this Call Off Schedule (Contract Charges), the Call Off Contract Charges of the Call Off Contract Period.

4. COSTS AND EXPENSES

4.1 The Call Off Contract Charges include all costs and expenses incurred by the Supplier in connection with the performance and/or the Supplier's performance of its obligations under this Call Off Contract. No further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:

4.1.1 any incidental expenses that the Supplier incurs, including travel and lodging, document or report reproduction, staff costs, equipment costs required by the Supplier Performance Period, interconnect or interchange costs or other telecommunications charges.

4.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Call Off Commencement Date.

5. INVOICING PROCEDURE

5.1 The Customer shall pay all sums properly due and payable by the Customer to the Supplier in funds within thirty (30) days of receipt of a Valid Invoice, as defined in paragraph 5.5, specified by the Customer in paragraph 5.5 of this Call Off Contract, in accordance with the provisions of this Call Off Contract.

5.2 The Supplier shall ensure that each invoice (whether submitted in electronic or paper form, as the Customer may specify):

5.2.1 contains:

(a) all appropriate references, including the Supplier's invoice number and

(b) a detailed breakdown of the Delivered Services Milestone(s) (if any) and Deliverable(s) to which the Delivered Services relate, and the corresponding payable Call Off Contract Charges; and

5.2.2 shows separately:

5.4 All payments due by one Party to the other shall be made on receipt of a Valid Invoice unless otherwise specified in cleared funds, to such bank or building society account as from time to time direct.

5.5 The Supplier shall submit invoices directly to:

By email to:

SSa.invoice@dftssc.gsi.gov.uk in PDF format. Restrictions a responsibility to ensure the email is received by the Account

OR

By post to:

Accounts Payable, Shared Services arvato, 5 Sandringham
Swansea SA7 0EA

6. ADJUSTMENT OF CALL OFF CONTRACT CHARGES

6.1 The Call Off Contract Charges shall only be varied:

- 6.1.1 due to a Specific Change in Law in relation to which a change is required to all or part of the Call Off Contract Charges with Clause 22.2 of this Call Off Contract (Legislative Change);
- 6.1.2 in accordance with Clause 23.1.4 of this Call Off Contract (Contract Charges and Payment) where all or part of the Call Off Contract Charges are reduced as a result of a reduction in the Framework Agreement;
- 6.1.3 where all or part of the Call Off Contract Charges are subject to a review of the Call Off Contract Charges in accordance with Clause 24 of this Call Off Contract (Continuous Improvement);
- 6.1.4 where all or part of the Call Off Contract Charges are subject to a review of Call Off Contract Charges in accordance with Clause 25 of this Call Off Contract (Benchmarking);
- 6.1.5 where all or part of the Call Off Contract Charges are subject to a review in accordance with paragraph 7 of this Call Off Schedule.

6.2 Subject to paragraphs 6.1.1 to 6.1.5 of this Call Off Schedule, the Call Off Contract Charges will remain fixed for the first two (2) Contract Years.

- 8.1 The Supplier may request an increase in all or part of the in accordance with the remaining provisions of this paragraph
- 8.1.1 paragraph 3.2 of this Call Off Schedule;
 - 8.1.2 the Supplier's request being submitted in writing before the effective date for the proposed increase in Contract Charges ("**Review Adjustment Date**") paragraph 8.2 of this Call Off Schedule; and
 - 8.1.3 the Approval of the Customer which shall be granted at the discretion.
- 8.2 The earliest Review Adjustment Date will be the first (1st) second (2nd) anniversary of the Call Off Commencement subsequent increase to any of the Call Off Contract Charges paragraph 8 of this Call Off Schedule shall not occur before the previous Review Adjustment Date during the Call Off Contract
- 8.3 To make a request for an increase of some or all of the Contract Charges in accordance with this paragraph 8, the Supplier shall provide
- 8.3.1 a list of the Call Off Contract Charges it wishes to request an increase in;
 - 8.3.2 for each of the Call Off Contract Charges under request, the justification for the requested increase including
 - (a) a breakdown of the profit and cost components of the relevant Call Off Contract Charge;
 - (b) details of the movement in the different identified components of the relevant Call Off Contract Charge;
 - (c) reasons for the movement in the different identified components of the relevant Call Off Contract Charge;
 - (d) evidence that the Supplier has attempted to reduce the increase in the relevant cost components;
 - (e) evidence that the Supplier's profit component of the relevant Contract Charge is no greater than that applied to other Contract Charges using the same pricing mechanism since the Commencement Date.

9.1.4 in accordance with Clause 25 of this Call Off Contract an adjustment to the Call Off Contract Charges is made in accordance with paragraph 6.1.4 of this Call Off Schedule

9.1.5 on the Review Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph **Error** **found.** of this Call Off Schedule;

and the Parties shall amend the Call Off Contract Charges shown in the Call Off Schedule to reflect such variations.

ANNEX 1: CALL OFF CONTRACT CHARGES

1. CALL OFF CONTRACT CHARGES

1.1 Supplier proposal rates

REDACTED

ANNEX 2: PAYMENT TERMS/PROFILE

1. REDACTED

CALL OFF SCHEDULE 4: IMPLEMENTATION PLAN, CUSTOMER AND KEY PERSONNEL

2 INTRODUCTION

2.1 This Call Off Schedule specifies:

2.1.1 In Part A, the Implementation Plan in accordance with the Call Off Schedule provide the Services;

PART A: IMPLEMENTATION PLAN

3. GENERAL

3.1 The Implementation Plan is set out below:

3.2 The Milestones to be Achieved are Identified below:

Milestone	Description	
1	Primary user account set up.	To be av working
2	Helpdesk service to be available	To be av week
3	Training to be agreed and provided to nominated Customer staff.	Within 2 v
4	Assisting the Customer creating lists of key influencers and ad hoc queries for campaigns tracking and crisis monitoring	Within 4 v

3.3 The Customer requires the Supplier to provide a su
throughout the duration of the Social Media Monitoring
consistently deliver a quality service to all Parties.

3.4 The Supplier shall ensure that staff understand the Custom
and will provide excellent customer service to the Custom
of the Contract.

3.5 The Customer requires a single point of contact for account
escalation procedure.

3.6 A central point of contact available within working hour
support and to organise any training the Customer may re
monitoring service

4.2 Escalation and Business Continuity

REDACTED

PART B: CUSTOMER RESPONSIBILITIES

5. GENERAL

5.1 The Customer Responsibilities associated with the Migration Implementation Plan are set out in the column entitled Customer Responsibilities in the Implementation Plan.

5.2 The Customer is responsible for providing all necessary resources to the Supplier to complete any described activities by the prescribed time.

5.3 The Customer to ensure sufficient staffing is made available for the project and tool training.

5.4 CUSTOMER KEY PERSONNEL

Name	Role	Company
REDACTED		
REDACTED		
REDACTED		

PART C: KEY PERSONNEL

6. GENERAL

6.1 The Supplier has assigned the following Key Personnel to the Key Roles detailed below:

Name	Role	C
REDACTED		

CALL OFF SCHEDULE 5: NOT USED

CALL OFF SCHEDULE 6: SERVICE LEVELS, SERVICE CREDIT MONITORING – SERVICE CREDITS ARE NOT APPLICABLE

1. SCOPE

1.1 This Call Off Schedule (Service Levels, Service Credit Monitoring) sets out the Service Levels which the Supplier will provide when providing the Services, the mechanism by which Service Level Critical Service Level Failures will be managed and the Supplier's performance in the provision by it of the Services.

1.2 This Call Off Schedule comprises:

- 1.2.1 Part A: Service Levels and Service Credits;
- 1.2.2 Annex 1 to Part A - Service Levels and Service Credits;
- 1.2.3 Annex 2 to Part A – Critical Service Level Failure;
- 1.2.4 Part B: Performance Monitoring; and
- 1.2.5 Annex 1 to Part B: Additional Performance Monitoring.

- 2.2.4 Complaints handling; and
- 2.2.5 Accurate and timely invoices.

3. PRINCIPAL POINTS

- 3.1 The objectives of the Service Levels and Service Credits are:
 - 3.1.1 ensure that the Services are of a consistently high quality to meet the requirements of the Customer;
 - 3.1.2 provide a mechanism whereby the Customer can seek recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted;
 - 3.1.3 incentivise the Supplier to comply with and to exceed the Service Levels to comply with the Service Levels.

4. SERVICE LEVELS

- 4.1 Annex 1 to this Part A of this Call Off Schedule sets out the performance of which the Parties have agreed to measure.
- 4.2 The Supplier shall monitor its performance of this Call Off Schedule against the relevant performance criteria for achieving the Service Levels set out in this Part A of this Call Off Schedule (the "**Service Levels**") and shall send the Customer a Performance Monitoring Report detailing the service which was achieved in accordance with the Service Levels (Performance Monitoring) of this Call Off Schedule.
- 4.3 The Supplier shall, at all times, provide the Services in accordance with the Service Levels Performance Measures are achieved.
- 4.4 If the level of performance of the Supplier of any element of the Services during the Call Off Contract Period:
 - 4.4.1 is likely to or fails to meet any Service Level Performance Measure;
 - 4.4.2 is likely to cause or causes a Critical Service Failure;
 - 4.4.3 the Supplier shall immediately notify the Customer, in its absolute discretion and without prejudice to the Customer's right to terminate the Call Off Contract.

- (d) if a Critical Service Level Failure has occurred, the Supplier shall provide Compensation for Critical Service Level Failure in accordance with Clause 14 of this Call Off Contract (Critical Service Level Failure Compensation) (including subject, for the avoidance of doubt, to the provisions of Clause 14.1.2 of this Call Off Contract in relation to Critical Service Level Failure Compensation).

4.5 Approval and implementation by the Customer of any Force Majeure shall not relieve the Supplier of any continuing responsibility to achieve the Service Level Performance and remedy any failure to do so, and no estoppels or waiver shall apply to the Supplier. Approval and/or implementation by the Customer.

5. SERVICE CREDITS

5.1 Annex 1 to this Part A of this Call Off Schedule sets out the details of a Service Credit payable to the Customer as a result of a Service Level Failure in a given service period which, for the purpose of this Call Off Contract, is a recurrent period of **one Month** during the Call Off Contract (**"Service Credit Period"**).

5.2 Annex 1 to this Part A of this Call Off Schedule includes details of the Service Credits available to each Service Level Performance Criterion if the Service Level Performance Measure is not met by the Supplier.

5.3 The Customer shall use the Performance Monitoring and Reporting System of the Supplier under Part B (Performance Monitoring) of this Call Off Contract for the calculation and accuracy of the Service Credits, if applicable, for each relevant Service Period.

5.4 Service Credits are a reduction of the amounts payable to the Supplier and do not include VAT. The Supplier shall set-off the value of the Service Credits against the appropriate invoice in accordance with calculation set out in Annex 1 to Part A of this Call Off Schedule.

6. NATURE OF SERVICE CREDITS

6.1 The Supplier confirms that it has modelled the Service Credits into account in setting the level of the Call Off Contract and that the Service Credits are a reasonable method of price adjustment for poor performance.

7. SERVICE CREDIT CAP

1.2 The Customer will measure the quality of the Suppliers de
out below and any further indicators agreed between the C

KPI/SLA	Service Area	KPI/SLA description
1	Social Media Monitoring Tool	All planned system unavailability notified to the Customer at least complete working day in advance
2	Social Media Monitoring Tool	To be available all normal work weekdays days
3	Service Delivery	Telephone conference between Supplier and the Customer to discuss updates and any other matters
4	Service Delivery	The supplier shall provide to the Customer's contract manager reports with unit volumes of all elements of the service, prior to submitting each monthly invoice
5	Service Delivery	The supplier will adhere to the timescales/project plans unless otherwise agreed by the Customer
6	Service Delivery	The supplier will ensure that all services delivered address the requirements in the brief
7	Customer Service	The Supplier will respond to email and telephone calls with 24hrs
8	Customer Service	The Supplier will acknowledge complaints within 24 hrs and endeavour to resolve complaints within 1 week

		month, unless otherwise agreed with the Customer
--	--	--

- 1.3 Performance is to be reviewed every 3 months between the Supplier and the Customer to ensure maximum value is being received by the Customer.
- 1.4 The Customer will provide the Supplier one month's notice should the Supplier be required to provide a further one month's notice should the service be unsatisfactory.
- 1.5 The Customer expects the Supplier to maintain effective business continuity plans to maintain communication with the Customer in the event of a minimum disruption to services.

ANNEX 2 TO PART A: CRITICAL SERVICE LEVELS

In relation to **failed Service Delivery** a Critical Service Level is defined as a delay in producing **the Services** ordered by the Customer in excess of 24 hours more than once in any three (3) Month period or more than once in any rolling twelve (12) Month period.

The number of Service Level Performance Criteria for the Services shall be 8.

PART B: PERFORMANCE MONITORING

8. PRINCIPAL POINTS

- 8.1 Part B to this Call Off Schedule provides the method of monitoring and reporting provision of the Services:
 - 8.1.1 to ensure that the Supplier is complying with the Service Levels.
 - 8.1.2 for identifying any failures to achieve Service Levels and/or provision of the Services ("Performance System").
- 8.2 Within twenty (20) Working Days of the Call Off Commencement Date the Supplier shall provide the Customer with details of how the performance monitoring and reporting of Service Levels will operate throughout the term of the Services.

- 10.1.1 for each Service Level, the actual performance against the Service Level for the relevant Service Period;
 - 10.1.2 a summary of all failures to achieve Service Levels for the relevant Service Period;
 - 10.1.3 any Critical Service Level Failures and details in relation to such failures;
 - 10.1.4 for any repeat failures, actions taken to resolve the failures and prevent recurrence;
 - 10.1.5 the Service Credits to be applied in respect of the failures and Service Levels to which the Service Credits apply;
 - 10.1.6 such other details as the Customer may reasonably require.
- 10.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis (the "Performance Review Meetings"). The Performance Review Meetings will be the forum for the Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
- 10.2.1 take place within one (1) week of the Performance Monitoring Report issued by the Supplier;
 - 10.2.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed;
 - 10.2.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 10.2.4 be fully minuted by the Supplier. The prepared minutes shall be provided to the Supplier to all attendees at the relevant Performance Review Meeting. The Customer's Representative and any other recipient of the minutes shall agree the minutes at the meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 10.3 The Customer shall be entitled to raise any additional queries and request any further information regarding any failure to achieve Service Levels.
- 10.4 The Supplier shall provide to the Customer such support and assistance as the Customer may reasonably require in order to verify the accuracy of the Supplier's Performance Monitoring Reports and the calculations of the amount of Service Credits for the relevant Service Period.

CALL OFF SCHEDULE 7: STANDARDS – NOT

CALL OFF SCHEDULE 8: SECURITY

1. DEFINITIONS

1.1 In this Call Off Schedule 8, the following definitions shall apply:

"Breach of Security" means the occurrence of:

- a) any unauthorised access to or disclosure of information or data (including the Customer Data and the Customer Data and/or the Supplier information) under this Call Off Contract; and/or
- b) the loss and/or unauthorised disclosure of information or data (including the Customer Data and the Customer Data and/or the Supplier information) or any copies of such information or data to the Customer and/or the Supplier under this Call Off Contract;

in either case as more particularly defined in the Supplier's Security Policy;

2. INTRODUCTION

2.1 The purpose of this Call Off Schedule is to ensure a good standard of security under which the specific requirements of this Call Off Schedule are met.

2.2 This Call Off Schedule covers:

2.2.1 principles of protective security to be applied in delivering the Services;

2.2.2 the creation and maintenance of the Security Management System;

- 3.2.4 meets any specific security threats of immediate and/or the Customer Data; and
- 3.2.5 complies with the Customer's ICT policies.
- 3.3 Subject to Clause 34 of this Call Off Contract (Security and the references to standards, guidance and policies paragraph 3.2 of this Call Off Schedule shall be deemed items as developed and updated and to any successor standards, guidance and policies, as notified to the Supplier
- 3.4 In the event of any inconsistency in the provisions of the and policies, the Supplier should notify the Customer's inconsistency immediately upon becoming aware of the Representative shall, as soon as practicable, advise the Supplier shall be required to comply with.

4. SECURITY MANAGEMENT PLAN

4.1 Introduction

- 4.1.1 The Supplier shall develop and maintain a Security in accordance with this Call Off Schedule. The Supplier shall comply with its obligations set out in the Security Management Plan

4.2 Content of the Security Management Plan

- 4.2.1 The Security Management Plan shall:
 - (a) comply with the principles of security set out in the Call Off Schedule and any other provisions of the Contract relevant to security;
 - (b) identify the necessary delegated organisations and those responsible for ensuring it is complied with;
 - (c) detail the process for managing any access to the Services, Contractors and third parties authorised to access the Services, the Customer Premises, the Customer Information and data (including the Customer Information and the Customer Data) and any other information that directly or indirectly have an impact on the Services.

which are sufficient to ensure that the Service complies with the provisions of this Call Off Contract;

- (f) set out the plans for transiting all service responsibilities for the Supplier to meet the security requirements set out in this Call Off Contract Security Policy; and
- (g) be written in plain English in language which is comprehensible to the staff of the Supplier engaged in the provision of the Services; and all documents which are in the possession of the Supplier at the location is otherwise specified in this Call Off Contract.

4.3 Development of the Security Management Plan

4.3.1 Within twenty (20) Working Days after the Call Off Contract or such other period agreed by the Parties in writing pursuant to paragraph 4.4 (Amendment and Revision), the Supplier shall deliver to the Customer for Approval a fully completed Security Management Plan which will be based on the details of the Call Off Contract Plan.

4.3.2 If the Security Management Plan submitted to the Customer pursuant to paragraph 4.3.1, or any subsequent revision pursuant to paragraph 4.4 (Amendment and Revision), is Approved by the Customer immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with the Call Off Contract Schedule. If the Security Management Plan is not Approved by the Customer, the Supplier shall amend it within ten (10) Working Days or such other period as the parties may agree in writing of a notice of non-approval from the Supplier to submit to the Customer for Approval. The parties shall endeavour to ensure that the approval process takes no longer than and in any event no longer than fifteen (15) Working Days (or such other period as the parties may agree in writing) from the date of submission to the Customer. If the Customer does not approve the Security Management Plan following its resubmission, the matter will be referred to the Dispute Resolution Procedure.

4.3.3 The Customer shall not unreasonably withhold or delay its approval or not the Security Management Plan pursuant to paragraph 4.3.1 or refused by the Customer to Approve the Security Management Plan.

- (d) any new perceived or changed security threat;
 - (e) any reasonable change in requirements relevant to the Security Management Plan.
- 4.4.2 The Supplier shall provide the Customer with the results of the review as soon as reasonably practicable after their completion. The findings of the Security Management Plan at no additional cost to the Supplier. The findings of the review shall include, without limitation:
 - (a) suggested improvements to the effectiveness of the Security Management Plan;
 - (b) updates to the risk assessments; and
 - (c) suggested improvements in measuring the effectiveness of the Security Management Plan.
- 4.4.3 Subject to paragraph 4.4.4, any change or amendment proposed by the Supplier to the Security Management Plan shall be carried out in accordance with paragraph 4.4.1, a Variation Procedure (or otherwise) shall be subject to the Variation Procedure for the Contract. No change shall be implemented until Approved by the Customer.
- 4.4.4 The Customer may, where it is reasonable to do so, require the Supplier to make changes or amendments to the Security Management Plan on timescales faster than set out in the Variation Procedure, provided that such changes shall be without prejudice to their effectiveness, all such changes shall be subject to the Variation Procedure for the Contract and documenting the relevant change or amendment in the Security Management Plan. The Customer shall be notified in the Call Off Contract.

5. BREACH OF SECURITY

- 5.1 Either party shall notify the other in accordance with the Security Management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential Breach of Security.
- 5.2 Without prejudice to the security incident management process, the Supplier shall be aware of any of the circumstances referred to in paragraph 5.1.1.
 - 5.2.1 immediately take all reasonable steps (which shall include any changes reasonably required by the Customer) necessary to:
 - (a) minimise the extent of actual or potential damage;

Management Plan with the Security policy or the required Schedule, then any required change to the Security Management Plan will be at the cost to the Customer.

ANNEX 1: SECURITY POLICY

No additional security policy required

ANNEX 2: SECURITY MANAGEMENT PLAN

No additional security management plan required

CALL OFF SCHEDULE 9: BUSINESS CONTINUITY AND DISASTER RECOVERY

1. DEFINITIONS

1.1 In this Call Off Schedule 9, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given in the Reference source not found of Schedule;
"Disaster Recovery Plan"	has the meaning given in the Reference source not found of Schedule;
"Disaster Recovery System"	means the system and procedures for the recovery of Services following the occurrence of a disaster.

"Review Report"

has the meaning g
this Call Off Sched

"Supplier's Proposals"

has the meaning g
this Call Off Sched

2. BCDR PLAN (AS PER SUPPLIER SUBMISSION)

REDACTED

3. REVIEW AND AMENDMENT OF THE BCDR PLAN

3.1 The Supplier shall review the BCDR Plan (and the risk ana

3.1.1 on a regular basis and as a minimum once every s

3.1.2 within three calendar months of the BCDR Plan (invoked pursuant to paragraph 7; and

3.1.3 where the Customer requests any additional review provided for in paragraphs 3.1.1 and 3.1.2 of the notifying the Supplier to such effect in writing, who conduct such reviews in accordance with requirements. Prior to starting its review, the S accurate written estimate of the total costs payable Customer's approval. The costs of both Parties of a shall be met by the Customer except that the Supp charge the Customer for any costs that it may i without the Customer's prior written approval.

3.2 Each review of the BCDR Plan pursuant to paragraph 3. shall be a review of the procedures and methodologies set shall assess their suitability having regard to any change underlying business processes and operations facilitated Services which have taken place since the later of the orig

Plan or the last review of the BCDR Plan and shall occur upon the occurrence of any event since that date (or the likelihood of such event taking place in the foreseeable future) which may increase the risk of an event that may invoke the BCDR Plan. The review shall be completed within the time period required by the BCDR Plan or, if no such period is required, within the period as the Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review, provide to the Customer a report (a “**Review Report**”) setting out:

- 3.2.1 the findings of the review;
- 3.2.2 any changes in the risk profile associated with the plan;
- 3.2.3 the Supplier's proposals (the “**Supplier's Proposals**”) in response to any changes in the risk profile and its proposals for a revised BCDR Plan following the review detailing the impact (if any) of such proposals. The Supplier can reasonably be expected to be awarded the contract for the implementation of such proposals may have on any third party provided by a third party.

3.3 Following receipt of the Review Report and the Supplier's Proposals, the Customer shall:

- 3.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
- 3.3.2 notify the Supplier in writing that it approves or rejects the Supplier's Proposals no later than twenty (20) Working Days of the date on which they are first delivered to the Customer.

3.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:

- 3.4.1 the Customer shall inform the Supplier in writing of its reasons for rejection and
- 3.4.2 the Supplier shall then revise the Review Report and the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions to address the Customer's revision) and shall re-submit a revised Review Report and the Supplier's Proposals to the Customer for the Customer's review within twenty (20) Working Days of the date of the Customer's rejection. The provisions of paragraphs 3.3 and 3.4 of this Contract shall apply again to any resubmitted Review Report and Supplier's Proposals.

necessary, including where there has been any change to the underlying business processes, or on the occurrence of any event that increases the likelihood of the need to implement the BCDR Plan.

- 4.2 If the Customer requires an additional test of the BCDR Plan, the Supplier shall, on receipt of written notice and the Supplier shall conduct the test in accordance with the Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer if the BCDR Plan fails the additional test in which case the Supplier's costs of the test shall be borne by the Supplier.
- 4.3 The Supplier shall undertake and manage testing of the BCDR Plan in consultation with the Customer and shall liaise with the Customer on the planning, performance, and review, of each test, and shall meet the reasonable requirements of the Customer in this regard. The testing shall be carried out under the supervision of the Customer or its nominee.
- 4.4 The Supplier shall ensure that any use by it or any Sub-Contractor of such testing is first approved with the Customer. Copies of the results of such testing shall be (if so required by the Customer) delivered to the Customer on completion of the test.
- 4.5 The Supplier shall, within twenty (20) Working Days of the completion of the test, provide to the Customer a report setting out:
 - 4.5.1 the outcome of the test;
 - 4.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 4.5.3 the Supplier's proposals for remedying any such failures.
- 4.6 Following each test, the Supplier shall take all measures required to remediate any failures (including requests for the re-testing of the BCDR Plan) to ensure the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date specified in the notice to the Customer and set out in such notice.
- 4.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of its obligations under this Call Off Contract.
- 4.8 The Supplier shall also perform a test of the BCDR Plan in the event of a re-configuration of the Services or as otherwise required by the Customer.

CALL OFF SCHEDULE 10: EXIT MANAGEMENT

1. DEFINITIONS

1.1 In this Call Off Schedule, the following definitions shall apply:

"Exclusive Assets" means those Supplier Asset(s) owned by the Supplier or a Key Sub-Contractor and used exclusively in connection with the Services;

"Exit Information" has the meaning given to it in clause 3.1.1 of this Call Off Schedule;

"Exit Manager" means the person appointed by the Contractor pursuant to paragraph 3.1.1 of this Call Off Schedule for the purpose of managing the Contractor's respective obligations under this Call Off Schedule;

"Net Book Value" means the net book value of the Supplier Asset(s) owned by the Supplier and used in connection with this Call Off Schedule, less with the depreciation allowance as set out in the letter of offer issued to the Supplier to the Contractor in connection with this Call Off Schedule;

"Non-Exclusive Assets" means those Supplier Asset(s) owned by the Supplier which are used by the Supplier or a Key Sub-Contractor in connection with the Services but which are also used by the Supplier or a Key Sub-Contractor in connection with other business;

"Registers" means the registers, ledgers, databases, spreadsheets and other data files referred to in clauses 3.1.1 and 3.1.2 of this Call Off Schedule;

"Termination Assistance" means the activities undertaken by the Contractor on behalf of the Supplier pursuant to clause 3.1.1 of this Call Off Schedule and other assistance referred to in clause 3.1.1 pursuant to the terms of the Notice;

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2. INTRODUCTION

2.1 This Call Off Schedule describes provisions that should be the duties and responsibilities of the Supplier to the Customer covering the Call Off Expiry Date and the transfer of the Customer and/or a Replacement Supplier.

2.2 The objectives of the exit planning and service transfer are to ensure a smooth transition of the availability of the Services to the Customer and/or a Replacement Supplier at the Call Off Expiry Date.

3. OBLIGATIONS DURING THE CALL OFF CONTRACT PERIOD AND EXIT

3.1 During the Call Off Contract Period, the Supplier shall:

3.1.1 create and maintain a Register of all:

(a) Supplier Assets, detailing their:

- (i) make, model and asset number;
- (ii) ownership and status as either Exclusive Assets;
- (iii) Net Book Value;
- (iv) condition and physical location;
- (v) use (including technical specifications).

3.1.4 at all times keep the Registers up to date, in particular Sub-Contracts or other relevant agreements are a the Services.

3.2 The Supplier shall:

3.2.1 procure that all Exclusive Assets listed in the Register identify that they are exclusively used for the provision of this Call Off Contract; and

3.2.2 (unless otherwise agreed by the Customer in writing) for Third Party IPR and all Sub-Contracts shall be a of novation at the request of the Customer to (nominee) and/or any Replacement Supplier upon provide the Services (or part of them) without restriction to obtain any consent or approval) or payment by the

3.3 Where the Supplier is unable to procure that any Sub-Contract referred to in paragraph 3.2.2 of this Call Off Schedule will to enter into after the Call Off Commencement Date is assigned to the Customer (and/or its nominee) and/or a novation to the Customer (and/or its nominee) and/or a without restriction or payment, the Supplier shall promptly this and the Parties shall (acting reasonably and without appropriate action to be taken which, where the Customer the Supplier seeking an alternative Sub-Contractor or Supplier the relevant agreement relates.

3.4 Each Party shall appoint a person for the purposes of its respective obligations under this Call Off Schedule and promptly such appointment to the other Party within three (3) Business Days of the Call Off Commencement Date. The Supplier's Exit Manager shall be responsible that the Supplier and its employees, agents and Sub-Contractors comply with the Call Off Schedule. The Supplier shall ensure that its Exit Manager liaises with the Customer to arrange and procure any resources of the Supplier necessary to enable the Supplier to comply with the requirements of the Call Off Schedule. The Parties' Exit Managers will liaise with one another on issues relevant to the termination of this Call Off Contract and comply with this Call Off Schedule and each Party's compliance with

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 4.1.6 all information relating to Transferring Supplier E provided by the Supplier under this CallOff Contract
- 4.1.7 such other material and information as the Customer (together, the “**Exit Information**”).
- 4.2 The Supplier acknowledges that the Customer may Confidential Information to an actual or prospective Rep third party whom the Customer is considering engaging disclosure is necessary in connection with such enga Customer may not under this paragraph 4.2 of this Call Supplier’s Confidential Information which is information re its Sub-Contractors’ prices or costs).
- 4.3 The Supplier shall:
 - 4.3.1 notify the Customer within five (5) Working Days of Exit Information which may adversely impact up Services and shall consult with the Customer material changes; and
 - 4.3.2 provide complete updates of the Exit Information soon as reasonably practicable and in any even Days of a request in writing from the Customer.
- 4.4 The Supplier may charge the Customer for its reasonable extent the Customer requests more than four (4) updates in
- 4.5 The Exit Information shall be accurate and complete in all level of detail to be provided by the Supplier shall be such necessary to enable a third party to:
 - 4.5.1 prepare an informed offer for those Services; and
 - 4.5.2 not be disadvantaged in any subsequent procurement the Supplier (if the Supplier is invited to participate)

5. EXIT PLAN

- 5.1 The Supplier shall, within three (3) months after the Call deliver to the Customer an Exit Plan which:
 - 5.1.1 sets out the Supplier's proposed methodology

- 5.3.2 the management structure to be employed during the period of the Services;
- 5.3.3 the management structure to be employed during the Transition Period;
- 5.3.4 a detailed description of both the transfer and cessation of the Services and a timetable;
- 5.3.5 how the Services will transfer to the Replacement Supplier, including details of the processes, documentation, systems migration, security and the segregation of the Services from any technology components operated by the Supplier or Sub-Contractors (where applicable);
- 5.3.6 details of contracts (if any) which will be available for review by the Supplier and/or the Replacement Supplier upon the Call Off Expiry Date and any reasonable costs required to effect such transfer, and that all assets and contracts used by the Supplier in the provision of the Services will be available for such transfer;
- 5.3.7 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the Services following the Call Off Expiry Date charged at rates agreed in writing at that time;
- 5.3.8 proposals for providing the Customer or a Replacement Supplier with the following documentation:
 - (a) used in the provision of the Services and necessary for the continued use thereof, in which the Intellectual Property is owned by the Supplier; and
 - (b) relating to the use and operation of the Services.
- 5.3.9 proposals for the assignment or novation of the Services, leases, maintenance agreements and support agreements to the Replacement Supplier in connection with the performance of the Services;
- 5.3.10 proposals for the identification and return of all Customer assets in possession of and/or control of the Supplier or any Sub-Contractor);
- 5.3.11 proposals for the disposal of any redundant Services.

6. TERMINATION ASSISTANCE

6.1 The Customer shall be entitled to require the provision of Termination Assistance at any time during the Call Off Contract Period by giving written notice (a "**Termination Assistance Notice**") at least four (4) months before the Expiry Date or as soon as reasonably practicable (but in any event not less than one (1) month) following the service by either Party of a Termination Assistance Notice shall specify:

- 6.1.1 the date from which Termination Assistance is required;
- 6.1.2 the nature of the Termination Assistance required; and
- 6.1.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) months from the date that the Supplier ceases to provide the Services.

6.2 The Customer shall have an option to extend the Term of the Call Off Contract beyond the period specified in the Termination Assistance Notice. Such extension shall not extend for more than six (6) months from the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier in writing not less than twenty (20) Working Days prior to the date on which the Termination Assistance is otherwise due to expire. The Customer shall be deemed to have accepted its requirement for Termination Assistance by serving not less than twenty (20) Working Days' written notice upon the Supplier to such effect.

7. TERMINATION ASSISTANCE PERIOD

7.1 Throughout the Termination Assistance Period, or such longer period as the Customer may require, the Supplier shall:

- 7.1.1 continue to provide the Services (as applicable) to the Customer pursuant to paragraph 6.1 of this Call Off Contract during the Termination Assistance;
- 7.1.2 in addition to providing the Services and the Termination Assistance to the Customer any reasonable assistance required to allow the Services to continue without interruption following the expiry of this Call Off Contract and to facilitate the transition of responsibility for and conduct of the Services to a Replacement Supplier;

7.3 If the Supplier demonstrates to the Customer's reasonable satisfaction that the provision of the Services and provision of the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level Performance Objectives, the Parties shall vary the relevant Service Level Performance Objectives and applicable Service Credits to take account of such adverse effect.

8. TERMINATION OBLIGATIONS

8.1 The Supplier shall comply with all of its obligations contained in this Call Off Schedule.

8.2 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance Period (or any of the other provisions of this Call Off Schedule)), the Supplier shall:

8.2.1 cease to use the Customer Data;

8.2.2 provide the Customer and/or the Replacement Supplier with a copy of an uncorrupted version of the Customer Data in electronic form (in whatever format as reasonably required by the Customer);

8.2.3 erase from any computers, storage devices and storage media all copies of the Customer Data retained by the Supplier after the end of the Termination Assistance Period and promptly certify to the Customer that such deletion has taken place;

8.2.4 return to the Customer such of the following as is in its possession, custody or control:

(a) all materials created by the Supplier under the Call Off Contract in which the IPRs are owned by the Customer;

(b) any equipment which belongs to the Customer;

(c) any items that have been on-charged to the Customer, including consumables; and

(d) all Customer Property issued to the Supplier under the Call Off Contract (Customer Property). The Customer Property shall be handed back to the Customer at the end of the Termination Assistance Period (allowance shall be made only for reasonable wear and tear).

(e) any sums prepaid by the Customer in respect of the Services.

- (b) such members of the Supplier Personnel who were involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Replacement Supplier shall pay the reasonable costs actually incurred in responding to requests under this paragraph.

- 8.3 Upon termination or expiry (as the case may be) or at the end of the Assistance Period (or earlier if this does not adversely affect the performance of the Services and the Termination Assistance Period (or the other provisions of this Call Off Schedule), each Party shall, at the Party's request, destroy or delete all Confidential Information of the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information to the extent (and for the limited period) that such information was provided by the Party in question for the purposes of providing or performing the Termination Services or for statutory compliance purposes.
- 8.4 Except where this Call Off Contract provides otherwise, the Termination Services shall be terminated with effect from the end of the Termination Assistance Period.

9. ASSETS AND SUB-CONTRACTS

- 9.1 Following notice of termination of this Call Off Contract at the end of the Assistance Period, the Supplier shall not, without the Customer's consent:
 - 9.1.1 terminate, enter into or vary any Sub-Contract;
 - 9.1.2 (subject to normal maintenance requirements) make, acquire, use or dispose of, any existing Supplier Assets or Confidential Information of the Customer;
 - 9.1.3 terminate, enter into or vary any licence for software or hardware for the provision of Services.
- 9.2 Within twenty (20) Working Days of receipt of the up-to-date list of the Supplier's Assets pursuant to paragraph 7.1.5 of this Call Off Contract, the Supplier shall provide written notice to the Supplier setting out:
 - 9.2.1 which, if any, of the Transferable Assets the Supplier is proposing to transfer to the Customer and/or the Replacement Supplier;

and Transferable Contracts the Customer and/or its Supplier requires to provide the Services or the Replacement Supplier

9.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its Supplier for a consideration equal to their Net Book Value less the Call Off Contract Charges if the Transferring Asset has been partially or fully paid for by the Customer. If the Transferring Asset has not been paid for by the Customer, the Supplier shall be entitled to the Net Book Value of the Transferring Asset less the Call Off Contract Charges at the Call Off expiry Date, in which case the Supplier shall be entitled to the Net Book Value of the Transferring Asset less the Call Off Contract Charges through the Call Off Contract Charges.

9.4 Risk in the Transferring Assets shall pass to the Customer and/or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period. If the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.

9.5 Where the Supplier is notified in accordance with paragraph 9.1 that the Customer and/or the Replacement Supplier shall use any Exclusive Assets that are not Transferable Assets, the Supplier shall as soon as reasonably practicable

9.5.1 procure a non-exclusive, perpetual, royalty-free licence to use such assets on other terms that have been agreed by the Customer and/or the Replacement Supplier to use such assets (with or without assignment on the same terms); or failing which

9.5.2 procure a suitable alternative to such assets and the Replacement Supplier shall bear the reasonable price for the same.

9.6 The Supplier shall as soon as reasonably practicable assign the Transferring Assets to the Customer and/or the Replacement Supplier of the Termination Assistance Period. The Supplier shall execute such documents and provide such assistance as the Customer reasonably requires to effect this novation or assignment.

9.7 The Customer shall:

9.7.1 accept assignments from the Supplier or join with the Supplier in the novation of each Transferring Contract; and

9.7.2 once a Transferring Contract is novated or assigned to the Replacement Supplier, carry out, perform and discharge the obligations and liabilities created by or arising under that Transferring Contract.

10. SUPPLIER PERSONNEL

- 10.1 The Customer and Supplier agree and acknowledge that the Supplier ceasing to provide the Services or part of them shall be subject to the provisions of Schedule 11 (Staff Transfer) shall apply.
- 10.2 The Supplier shall not take any step (expressly or implicitly) by itself or through any other person) to dissuade or deter any person engaged in the provision of the Services from transferring their employment to the Customer and/or the Replacement Supplier.
- 10.3 During the Termination Assistance Period, the Supplier shall provide the Customer and/or the Replacement Supplier reasonable access to the Supplier's records to present the case for transferring their employment to the Replacement Supplier.
- 10.4 The Supplier shall immediately notify the Customer of any period of notice received from any person referred to in the Staffing Information Schedule. Such notice takes effect.
- 10.5 The Supplier shall not for a period of twelve (12) months re-employ or re-engage or entice any employees, suppliers or contractors whose employment or engagement is transferred to the Replacement Supplier, unless approval has been obtained from the Customer. Such approval shall not be unreasonably withheld.

11. CHARGES

- 11.1 Except as otherwise expressly specified in this Call Off Schedule, the Supplier shall not make any charges for the services provided by the Supplier to the Customer. The Customer shall not be obliged to pay for costs incurred by the Supplier in its compliance with, this Call Off Schedule including the costs of the implementation of the Exit Plan, the Termination Assistance Period. The Parties mutually agreed between the Parties to carry on after the Termination Assistance Period.

12. APPORTIONMENTS

- 12.1 All outgoings and expenses (including any remuneration, royalties and other periodical payments receivable in

CALL OFF SCHEDULE 11: STAFF TRANSFER

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

“Admission Agreement”	The agreement to be entered into by the Transferring Customer Employer and the Relevant Transfer Date which agrees to participate in the Scheme from the Relevant Transfer Date to time;
“Eligible Employee”	any Fair Deal Employee who at the Relevant Transfer Date is an eligible employee as defined in the Scheme;
“Fair Deal Employees”	those Transferring Customer Employer Employees who on the Relevant Transfer Date are entitled to the protection of the Fair Deal and any Transferring Former Supplier Employees who were originally transferred pursuant to a transfer of an undertaking under the Employment Regulations (or those Regulations to the Employment Regulations), who were employed by a public sector employer and who were entitled to participate in the Schemes and who were not on the Relevant Date become entitled to the protection of the Fair Deal;
“Former Supplier”	a Supplier supplying services to the Transferring Customer Employer on the Relevant Transfer Date that are the same or similar to the Services (or any part of the Services) and which include any sub-contractor of such a Supplier or any sub-contractor of any such sub-contractor;
“New Fair Deal”	the revised Fair Deal position set out in the Scheme with guidance: <i>“Fair Deal for staff performing essential services of central government”</i> issued in October 2010;
“Notified Sub-contractor”	a Sub-contractor identified in the Agreement to whom Transferring Customer Employer Employees or Transferring Former Supplier Employees were transferred on the Relevant Transfer Date;

Scheme; the Civil Service Additional Scheme; and the 2015 New Scheme to be notified to the Supplier by the Office);

“Service Transfer”

any transfer of the Services (or any part of the Services) for whatever reason, from the Supplier to a Replacement Supplier or a Replacement Supplier;

“Service Transfer Date”

the date of a Service Transfer;

“Staffing Information”

in relation to all persons identified in the Provisional Supplier Personnel List and the Supplier Personnel List, as the Customer may require, the following information as the Customer may require (subject to all applicable provisions of the Contract) including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employees, contractors or consultants or otherwise;
- (c) the identity of the employing Party;
- (d) their relevant contractual terms and conditions and other terms relating to their employment or engagement, including redundancy provisions and any other payments;
- (e) their wages, salaries and other remuneration arrangements as applicable;
- (f) details of other employment or engagement arrangements including (without limitation) any pension or other benefits or assurance pension or other arrangements.

	standard contracts if applied to such employees); and
	(i) any other “employee liability term is defined in regulatory Regulations;
“Supplier’s Final Supplier Personnel List”	a list provided by the Supplier of all employees who will transfer under the Employment Regulations on the Relevant Transfer Date;
“Supplier’s Provisional Supplier Personnel List”	a list prepared and updated by the Supplier of all employees who are engaged in or will be engaged in the provision of the Services or other Services which it is envisaged as a result of the Transfer will no longer be provided by the Supplier;
“Transferring Customer Employees”	those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;
“Transferring Former Supplier Employees”	those employees of a Former Supplier, to whom the Employment Regulations will apply on the Relevant Transfer Date in relation to a Former Supplier, to whom the Employment Regulations will apply on the Relevant Transfer Date;
“Transferring Supplier Employees”	those employees of the Supplier and its contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Supplier to provide indemnity, undertaking or warranty, the Supplier shall provide such indemnity, undertaking or warranty to the Customer, Former Supplier, Replacement Supplier or Contractor, as the case may be.

1.2 The Customer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations under the Employment Regulations in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of any benefits, entitlements and outgoings, all wages, accrued bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable to the period up to (but not including) the Relevant Transfer Date). The apportionments in respect of any periodic payments shall be made in favour of the Customer; and (ii) the Supplier and/or any Notified Sub-contractor.

2. CUSTOMER INDEMNITIES

2.1 Subject to Paragraph 2.2, the Customer shall indemnify the Supplier and/or any Notified Sub-contractor against any Employee Liabilities in respect of any Transferring Customer Employee (or, where applicable any employee of the Supplier and/or any Notified Sub-contractor in the Employment Regulations) arising from or as a result of:

2.1.1 any act or omission by the Customer occurring before the Relevant Transfer Date;

2.1.2 the breach or non-observance by the Customer before the Relevant Transfer Date of:

(a) any collective agreement applicable to the Supplier and/or any Notified Sub-contractor's Employees; and/or

(b) any custom or practice in respect of any Transferring Customer Employees which the Customer is contractually bound to observe;

2.1.3 any claim by any trade union or other body or person in respect of any Transferring Customer Employees arising from or as a result of any act or omission by the Customer to comply with any legal obligation under the Employment Regulations or arising before the Relevant Transfer Date;

2.1.4 any proceeding, claim or demand by HMRC or any other authority in respect of any financial obligation including, but not limited to, primary and secondary national insurance contributions;

(a) in relation to any Transferring Customer Employee, where the proceeding, claim or demand by HMRC or any other authority relates to financial obligations arising from or as a result of any act or omission by the Customer to comply with any legal obligation under the Employment Regulations or arising before the Relevant Transfer Date;

be liable by virtue of the Employment Regulations and the Rights Directive; and

21.7 any claim made by or in respect of a Transferring Customer Employee or an appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee arising from an omission of the Customer in relation to its obligations under the Employment Regulations, except to the extent that the claim is based on the failure by the Supplier or any Sub-contractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Liabilities arise or are attributable to an act or omission of the Supplier or contractor (whether or not a Notified Sub-contractor) which occurred in its origin before, on or after the Relevant Transfer Date and which are not the Liabilities:

221 arising out of the resignation of any Transferring Customer Employee on or after the Relevant Transfer Date on account of substantial changes to his/her working conditions proposed by the Supplier or contractor to occur in the period from (and including) the Relevant Transfer Date; or

222 arising from the failure by the Supplier or any Sub-contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Customer as a Transferring Customer Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Customer Employee that his employment has been transferred from the Customer to the Supplier or a Notified Sub-contractor pursuant to the Employment Regulations and the Rights Directive then:

231 the Supplier shall, or shall procure that the Notified Sub-contractor, within 5 Working Days of becoming aware of that fact, give notice of that fact to the Customer; and

232 the Customer may offer (or may procure that the Supplier or a Notified Sub-contractor offers) employment to such person within 15 Working Days of the date of notification by the Supplier and/or any Notified Sub-contractor, and take such other reasonable steps as the Customer considers appropriate in connection with the matter provided always that such steps are in compliance with the

Supplier and/or any Notified Sub-contractor (as appropriate) shall be liable for any and all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.6, provided that the Supplier takes, or procures that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

27.1 shall not apply to:

(a) any claim for:

(i) discrimination, including on the grounds of race, sex, religion, disability, age, gender reassignment, pregnancy and maternity, partnership, pregnancy and maternity, orientation, religion or belief;

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term workers;

in any case in relation to any alleged breach of the provisions of Paragraph 2.6 by the Supplier and/or any Sub-contractor;

(b) any claim that the termination of employment by the Supplier and/or Notified Sub-contractor is in breach of the dismissal procedure; and

27.2 shall apply only where the notification referred to in Paragraph 2.6 is received by the Supplier and/or any Notified Sub-contractor from the Customer within 6 months of the Call Off Commencement Date.

2.8 If any such person as is referred to in Paragraph 2.3 is not employed by the Customer nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5 such person shall be deemed to have been transferred to the Supplier and/or any Notified Sub-contractor and the Supplier or shall procure that the Notified Sub-contractor shall, comply with the provisions of Paragraph 2.6 as may be imposed upon it under applicable Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

3.1 Subject to Paragraph 3.2 the Supplier shall indemnify the Customer for any and all Employee Liabilities in respect of any Transferring Customer or any employee representative as defined in the provisions of Paragraph 2.6 arising from or as a result of:

- 31.4 any proposal by the Supplier or a Sub-contractor on or after the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Customer Employees to the detriment on or after their transfer to the Supplier or a Sub-contractor (as the case may be) on the Relevant Transfer Date to the terms and conditions of employment or working conditions which they would have been a Transferring Customer Employee had they not resigned (or decision to treat their employment as terminated in accordance with regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such changes;
- 31.5 any statement communicated to or action undertaken by the Supplier or a Sub-contractor to, or in respect of, any Transferring Customer Employee before the Relevant Transfer Date regarding the Relevant Transfer Date which has not been agreed in advance with the Customer in writing;
- 31.6 any proceeding, claim or demand by HMRC or any other authority in respect of any financial obligation including, but not limited to, any primary and secondary national insurance contributions payable by or in respect of:
(a) in relation to any Transferring Customer Employee in respect of whom the proceeding, claim or demand by HMRC or any other authority relates to financial obligations payable by or in respect of the Relevant Transfer Date; and
(b) in relation to any employee who is not a Transferring Customer Employee, and in respect of whom it is laid down in the Employment Regulations applied to the Supplier or a Sub-contractor that the Employment Regulations applied to the employee's employment from the Customer to the Supplier or a Sub-contractor to the extent that the proceeding, claim or demand by HMRC or any other statutory authority relates to financial obligations payable by or in respect of the Relevant Transfer Date;
- 31.7 a failure of the Supplier or any Sub-contractor to pay to or discharge of all wages, salaries and all other benefits payable to Transferring Customer Employees in respect of the period ending on the Relevant Transfer Date; and
- 31.8 any claim made by or in respect of a Transferring Customer Employee or an appropriate employee representative (as defined in regulation 4(9) of the Employment Regulations) of any Transferring Customer Employee

ANNEX TO PART A

PENSIONS

1. PARTICIPATION

1.1 The Supplier undertakes to enter into the Admission Agreement

1.2 The Supplier and the Customer:

121 undertake to do all such things and execute any (under the Admission Agreement) as may be required to participate in the Schemes in respect of the Fair Deal

122 agree that the Customer is entitled to make arrangements and is responsible for the Schemes for the Customer to terminate or breaches the Admission Agreement;

123 notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall indemnify the Customer in the event that it breaches the Admission Agreement;

124 agree that the Customer may terminate this Call Option Agreement in default in the event that the Supplier breaches the Admission Agreement.

1.3 The Supplier shall bear its own costs and all costs that it incurs in connection with the negotiation, preparation and implementation and facilitate the Supplier participating in the Schemes.

2. FUTURE SERVICE BENEFITS

2.1 The Supplier shall procure that the Fair Deal Employees who are transferred into, or offered continued membership of, the relevant Schemes before they currently contribute to, or were eligible to join immediately before the Transfer Date and the Supplier shall procure that the Fair Deal Employees to accrue benefits in accordance with the provisions governing the operation of Schemes for service from (and including) the Relevant Date.

2.2 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, it shall provide to the Customer, provide to any Fair Deal Employee who, upon the cessation remained an Eligible Employee with access to the relevant pension scheme certified by the Government Actuary's Department.

to account to the Schemes for payments received and the payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably require in connection with the matters (i) referred to in this Annex and (ii) set out in the Annex, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees on or after the Transfer Date concerning the matters stated in this Annex without the prior written consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep the Customer indemnified on demand from and against all and any Losses whatsoever arising from or in connection with any liability towards the Fair Deal Employees arising in respect of the Relevant Transfer Date which relate to the payment of benefits under any pension scheme (within the meaning provided for in section 1(1) of the Pension Protection Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pension Protection Act 2003 and the Transfer of Employment (Pension Protection) Regulations 2003.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee on the date of the relevant future transfer;
- 7.2 provide all such co-operation and assistance as the Schemes may reasonably require to enable the Supplier and/or the Customer to comply with the requirements of the Pension Protection Act 2003 and the Transfer of Employment (Pension Protection) Regulations 2003. The Supplier to participate in the Schemes in respect of any Fair Deal Employee who give effect to any transfer of accrued rights required as a condition of the Fair Deal.

apply to any change made as a consequence of participating in the Agreement.

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT CUSTOMER'S SERVICES

1. RELEVANT TRANSFERS

1.1 The Customer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services by the Supplier will be a Relevant Transfer in relation to the Supplier Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the employment between each Former Supplier and the Supplier Employees (except in relation to any termination of the operation of regulation 10(2) of the Employment Regulations) shall be treated as if it were a Relevant Transfer from the Relevant Transfer Date as if originating from the Supplier and/or Notified Sub-contractor and each Supplier Employee.

1.2 The Customer shall procure that each Former Supplier shall discharge its obligations under the Employment Regulations and shall discharge its obligations in respect of all the Transferring Former Supplier Employees for the period up to (but not including) the Relevant Transfer Date (including payment of all remuneration, benefits, entitlements and accrued but untaken holiday pay, bonuses, commission and national insurance contributions and pension contributions attributable in whole or in part in respect of the period up to the Relevant Transfer Date) and the Supplier shall make, or procure that each Former Supplier makes, any necessary payments of any periodic payments.

2. FORMER SUPPLIER INDEMNITIES

- 2.1.3 any proceeding, claim or demand by HMRC or in respect of any financial obligation including, but not limited to, primary and secondary national insurance contributions
- (a) in relation to any Transferring Former Supplier to the extent that the proceeding, claim or demand is based on statutory authority relates to financial obligations in respect of the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Employee and in respect of whom it is alleged that the Employment Regulations applied to the employee's employment from the Former Supplier to the Transferring Former Supplier or Notified Sub-contractor as appropriate, any proceeding, claim or demand by HMRC or in respect of any financial obligations in respect of the Relevant Transfer Date (excluding) the Relevant Transfer Date;
- 2.1.4 a failure of the Former Supplier to discharge or pay wages, salaries and all other benefits and all primary and secondary national insurance contributions relating to the Transferring Former Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.5 any claim made by or in respect of any person employed by the Former Supplier other than a Transferring Former Employee for whom it is alleged the Supplier and/or any Notified Sub-contractor may be liable by virtue of this Call for Contributions, the Employment Regulations and/or the Acquired Rights Act 1986;
- 2.1.6 any claim made by or in respect of a Transferring Former Employee or any appropriate employee representative (as defined in the Regulations) of any Transferring Former Supplier in respect of an act or omission of the Former Supplier in relation to regulation 13 of the Employment Regulations, except where liability arises from the failure by the Supplier or any Notified Sub-contractor with regulation 13(4) of the Employment Regulations;

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that Liabilities arise or are attributable to an act or omission of a Notified Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee

- 2.3.1 the Supplier shall, or shall procure that the Notified Sub-contractor shall, within 15 Working Days of becoming aware of that fact, give notice to the Customer and, where required by the Customer, take such steps as the Supplier and/or the Notified Sub-contractor considers appropriate to ensure compliance provided always that such steps are in compliance with the law.
- 2.3.2 the Former Supplier may offer (or may procure that the Former Supplier offers) employment to such person within 15 Working Days of becoming aware of that fact. The Former Supplier and/or the Notified Sub-contractor or take such steps as the Former Supplier considers appropriate to ensure compliance provided always that such steps are in compliance with the law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if it has not been resolved by the Former Supplier and/or the Customer within 15 Working Days, the Supplier shall procure that the Notified Sub-contractor shall, immediately terminate the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
 - 2.5.1 no such offer of employment has been made;
 - 2.5.2 such offer has been made but not accepted; or
 - 2.5.3 the situation has not otherwise been resolved,the Supplier and/or any Notified Sub-contractor may give notice to terminate the employment or alleged employment.
- 2.6 Subject to the Supplier and/or any Notified Sub-contractor complying with the provisions of Paragraphs 2.3 to 2.5 and in accordance with the employment procedures set out in Law, the Customer shall indemnify the Supplier and/or any Notified Sub-contractor against all Employee Liabilities arising out of the termination of employment. The provisions of Paragraph 2.5 provided that the Supplier and/or the Notified Sub-contractor takes, all reasonable steps to ensure compliance with the Law and Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
 - 2.7.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of race, sex, disability, age, gender reassignment, pregnancy and maternity, partnership, pregnancy and maternity, orientation, religion or belief.

within the time scales set out in Paragraph 2.5, such person shall, if it has not already done so, and having transferred to the Supplier or Notified Sub-contractor or shall procure that the Notified Sub-contractor shall, comply with such requirements as may be imposed upon it under the Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Former Supplier against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee of the Former Supplier defined in the Employment Regulations) arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Sub-contractor or any Transferring Former Supplier Employee before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any Sub-contractor or any Transferring Former Supplier Employee after the Relevant Transfer Date of:

(a) any collective agreement applicable to any Transferring Former Supplier Employee; and/or

(b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-contractor or any Transferring Former Supplier Employee is bound to honour;

3.1.3 any claim by any trade union or other body or person arising from or as a result of any Transferring Former Supplier Employees arising from or as a result of failure by the Supplier or a Sub-contractor to comply with any such requirements as to such trade union, body or person arising on or after the Relevant Transfer Date;

3.1.4 any proposal by the Supplier or a Sub-contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employee (or decision to make such changes or conditions of any Transferring Former Supplier Employee to the detriment on or after their transfer to the Supplier or a Sub-contractor (in either case may be) on the Relevant Transfer Date, or any proposal to change the conditions of employment or working conditions of any Transferring Former Supplier Employee) which have been a Transferring Former Supplier Employee (or decision to make such changes or conditions of any Transferring Former Supplier Employee) (or decision to treat their employment as terminated or as to be terminated under the Employment Regulations) before the Relevant Transfer Date, or any proposal of or for a reason connected to such proposed changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employee (or decision to make such changes or conditions of any Transferring Former Supplier Employee) to the detriment on or after their transfer to the Supplier or a Sub-contractor (in either case may be) on the Relevant Transfer Date, or any proposal to change the conditions of employment or working conditions of any Transferring Former Supplier Employee) which have been a Transferring Former Supplier Employee (or decision to make such changes or conditions of any Transferring Former Supplier Employee) (or decision to treat their employment as terminated or as to be terminated under the Employment Regulations) before the Relevant Transfer Date, or any proposal of or for a reason connected to such proposed changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employee (or decision to make such changes or conditions of any Transferring Former Supplier Employee) to the detriment on or after their transfer to the Supplier or a Sub-contractor (in either case may be) on the Relevant Transfer Date;

employment from the Former Supplier to the Supplier or any Sub-contractor, to the extent that the proceedings are not referred to the HMRC or other statutory authority relating to the Relevant Transfer Date arising on or after the Relevant Transfer Date;

- 3.1.7 a failure of the Supplier or any Sub-contractor to discharge of all wages, salaries and all other benefits, deductions and national insurance contributions relating to Former Supplier Employees in respect of the period ending on the Relevant Transfer Date; and
 - 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Regulations) of any Transferring Former Supplier arising from an act or omission of the Supplier or any Sub-contractor under regulation 13 of the Employment Regulations, where the liability arises from the Former Supplier's failure to discharge its obligations under regulation 13 of the Employment Regulations.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Liabilities arise or are attributable to an act or omission of the Supplier, whether occurring or having its origin before, on or after the Relevant Transfer Date, including, without limitation, any Employee Liabilities arising from the Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and each Sub-contractor shall perform and discharge, all its obligations under the Employment Regulations in respect of the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, and other outgoings, all wages, accrued but untaken holiday pay, and any payments of PAYE, national insurance contributions and pension contributions, in any case are attributable in whole or in part to the period ending on the Relevant Transfer Date) and any necessary apportionment of such payments shall be made between the Supplier and the Sub-contractor.

4. INFORMATION

The Supplier shall, and shall procure that each Sub-contractor shall,

5.1.2 HM Treasury's guidance "Staff Transfers from Cease to Operate Deal for Staff Pensions of 1999;

5.1.3 HM Treasury's guidance: "Fair deal for staff pensions: Transfer Agreements and Related Issues" of June 2005;

5.1.4 the New Fair Deal.

5.2 Any changes embodied in any statement of practice, paragraph 5.1, shall replace any of the documentation referred to in Paragraph 5.1 in accordance with the Variation Procedure.

6. PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part B, where the Supplier accepts an obligation to procure that a Former Supplier does not, such obligation shall be limited so that it extends only to the extent that the contract with the Former Supplier contains a contractual right which the Customer may enforce, or otherwise so that it requires only the Supplier's reasonable endeavours to procure that the Former Supplier complies accordingly.

7. PENSIONS

The Supplier shall, and shall procure that each Sub-contractor shall, ensure that pensions provisions in the following Annex in respect of any Transfer of Employees who transfer from the Former Supplier to the Supplier.

ANNEX TO PART B

PENSIONS

1. PARTICIPATION

1.1 The Supplier undertakes to enter into the Admission Agreement.

1.2 The Supplier and the Customer:

1.2.1 undertake to do all such things and execute any

- 2.1 If the Supplier is re-joining the Schemes for the first time, the Fair Deal Employees shall be either admitted to membership of the relevant section of the Schemes that they were a member of on the Relevant Transfer Date and shall continue to accrue service in accordance with the provisions governing the relevant section of the Schemes from (and including) the Relevant Transfer Date.
- 2.2 If staff have already been readmitted to the Schemes, the Fair Deal Employees, shall be either admitted to membership of, the relevant section of the Schemes that they were a member of, or were eligible to join immediately prior to the Relevant Transfer Date. The Supplier shall procure that the Fair Deal Employees continue to accrue service in accordance with the provisions governing the relevant section of the Schemes from (and including) the Relevant Transfer Date.
- 2.3 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, it shall, to the Customer, provide to any Fair Deal Employee who was a member of the scheme at the cessation remained an Eligible Employee with access to the relevant section of the scheme certified by the Government Actuary's Department. The Supplier shall, by the Customer in accordance with relevant guidance provided by the Government Actuary's Department as providing benefits which are broadly equivalent to those provided by the Schemes at the relevant date.
- 2.4 The Parties acknowledge that the Civil Service Compensation Scheme, the Civil Service Injury Benefit Scheme (established pursuant to the Civil Service Superannuation Act 1972) are not covered by the protection provisions of the Schemes.

3. FUNDING

- 3.1 The Supplier undertakes to pay to the Schemes all such contributions as are required by the Admission Agreement and shall deduct and pay to the Schemes the contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified the Customer against any claim by, payment to, or loss incurred by the Schemes in respect of any account to the Schemes for payments received and the payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

pension scheme (within the meaning provided for in section 1 of the Pension Protection Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pension Transfer of Employment (Pension Protection) Regulations 2005.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

7.1 not adversely affect pension rights accrued by any Fair Deal ending on the date of the relevant future transfer;

7.2 provide all such co-operation and assistance as the Schemes, the Supplier and/or the Customer may reasonably require to enable the Supplier to participate in the Schemes in respect of any future transfer to give effect to any transfer of accrued rights required as part of a New Fair Deal; and

7.3 for the period either

7.3.1 after notice (for whatever reason) is given, in accordance with the provisions of this Call Off Contract, to terminate the Supplier's performance of the Services; or

7.3.2 after the date which is two (2) years prior to the date of termination of the Contract,

to ensure that no change is made to pension, retirement or other benefits for or in respect of any person who will transfer to the Customer, no category of earnings which were not previously pensionable and the contributions (if any) payable in respect of such earnings are not reduced without (in any case) the prior approval of the Supplier (such approval not to be unreasonably withheld). Save that the above provisions shall apply to any change made as a consequence of part of the Supplier's Agreement.

the Customer and, where required by the Customer Supplier; and

1.2.2 the Customer and/or the Former Supplier may offer (or if a third party may offer) employment to such person (or persons) on the notification by the Supplier or the Sub-contractor (or persons) such other reasonable steps as the Customer or Former Supplier (or they may be) considers appropriate to deal with the matter. Such steps are in compliance with applicable Law.

1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if it has been resolved by the Customer and/or the Former Supplier) the Supplier shall procure that the Sub-contractor shall, immediately terminate his/her employment or alleged employment.

1.4 If by the end of the 15 Working Day period specified in Paragraph 1.2.2

1.4.1 no such offer of employment has been made;

1.4.2 such offer has been made but not accepted; or

1.4.3 the situation has not otherwise been resolved,

the Supplier and/or the Sub-contractor may within 5 Working Days terminate the employment or alleged employment of such person.

2. INDEMNITIES

2.1 Subject to the Supplier and/or the relevant Sub-contractor procuring the provisions of Paragraphs 1.2 to 1.4 and in accordance with the employment procedures set out in applicable Law and subject to the approval of the Customer the Supplier and/or the Sub-contractor shall:

2.1.1 indemnify the Supplier and/or the relevant Sub-contractor for all Employee Liabilities arising out of the termination of the employment of employees of the Customer referred to in Paragraph 1.2.2 and the provisions of Paragraph 1.4 provided that the Supplier and/or the Sub-contractor takes, all reasonable steps to avoid such Employee Liabilities; and

2.1.2 procure that the Former Supplier indemnifies the Supplier and/or the Sub-contractor against all Employee Liabilities arising out of the employment of the employees of the Former Supplier.

Liabilities that either of them may incur in respect of any s
Supplier and/or employees of the Sub-contractor.

2.4 The indemnities in Paragraph 2.1:

2.4.1 shall not apply to:

(a) any claim for:

(i) discrimination, including on the basis of race, sex, disability, age, gender reassignment, pregnancy and maternity, partnership, pregnancy and maternity, orientation, religion or belief;

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees;

in any case in relation to any alleged breach of contract by the Supplier and/or any Sub-contractor;

(b) any claim that the termination of employment by the Supplier and/or any Sub-contractor was not in accordance with the dismissal procedure; and

2.4.2 shall apply only where the notification referred to in Paragraph 2.1 is given by the Supplier and/or any Sub-contractor to the Customer or Former Supplier within 6 months of the Call Off Commencement Date.

3. PROCUREMENT OBLIGATIONS

Where in this Part C the Customer accepts an obligation to procure goods or services, such obligation shall be limited to the extent that the Customer's contract with the Former Supplier gives the Customer the right in that regard which the Customer may enforce, or otherwise that the Customer must use reasonable endeavours to procure goods or services if the Customer does or does not act accordingly.

PART D

EMPLOYMENT EXIT PROVISIONS

List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.

- 1.2 At least 40 Working Days prior to the Service Transfer, the Supplier shall provide to the Customer or at the direction of the Customer the following information to the Supplier and/or any Replacement Sub-contractor:
 - 1.2.1 the Supplier's Final Supplier Personnel List, which shall include the Supplier Personnel are Transferring Supplier Employment to the Replacement Supplier Personnel;
 - 1.2.2 the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List (insofar as such information has not previously been provided to the Customer).
- 1.3 The Customer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of identifying a Replacement Supplier and/or Replacement Sub-contractor.
- 1.4 The Supplier warrants, for the benefit of the Customer, and any Replacement Sub-contractor that all information provided under Paragraphs 1.1 and 1.2 shall be true and accurate in all material aspects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, the Supplier shall ensure that it shall not, and agrees to procure that each Sub-contractor shall not, employ any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Customer (unless such approval is unreasonably withheld or delayed):
 - 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier's Provisional Supplier Personnel List other than where any replacement person is of a higher grade, skills, experience and expertise and is employed on terms and conditions of employment as the person he/she replaced;
 - 1.5.2 make, promise, propose or permit any material change to the terms and conditions of employment of the Supplier Personnel listed on the Supplier's Provisional Supplier Personnel List (other than changes connected with the termination of employment);
 - 1.5.3 increase the proportion of working time spent on the provision of the Services (by any of the Supplier Personnel listed on the Supplier's Provisional Supplier Personnel List) on the assignments and projects previously scheduled and approved by the Customer;
 - 1.5.4 introduce any new contractual or customary practice relating to the payment of any lump sum payment on the termination of employment of any person listed on the Supplier's Provisional Supplier Personnel List.

- 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee in providing the Services; and
 - 1.6.3 a description of the nature of the work undertaken and the location.
- 1.7 The Supplier shall provide, and shall procure that each Supplier Employee provides, all reasonable cooperation and assistance to the Customer, the Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service to the Replacement Supplier, by providing sufficient information in advance of the Service Transfer to ensure that all necessary payroll arrangements can be made to ensure that all Supplier Employees to be paid as appropriate. Without prejudice to the foregoing, within 5 Working Days following the Service Transfer, the Supplier shall provide, and shall procure that each Sub-contractor provides, to the Customer or, at the direction of the Customer, to a Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), the following information on the Supplier's Final Supplier Personnel List who is a 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. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Customer and the Supplier acknowledge that subsequent to the provision of the Services, the identity of the Supplier (or part of the Services) may change (whether as a result of the Supplier's Termination of this Call Off Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Any change in the identity of the supplier of such services shall be subject to the Transfer to which the Employment Regulations and/or the

commissions, payments of PAYE, national insurance contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date. Apportionments in respect of any periodic payments shall be made between the Supplier and/or the Sub-contractor (as appropriate); and the Supplier and/or Replacement Sub-contractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Replacement Supplier and/or any Replacement Sub-contractor in respect of any Transferring Supplier Employee Liabilities in respect of any Transferring Supplier Employee applicable any employee representative as defined in the Regulations arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Sub-contractor on or before, on or after the Service Transfer Date;

2.3.2 the breach or non-observance by the Supplier or any Sub-contractor on or before the Service Transfer Date of:

(a) any collective agreement applicable to Transferring Supplier Employees; and/or

(b) any other custom or practice with a trade union or other body in respect of any Transferring Supplier Employee or any Sub-contractor is contractually bound to observe;

2.3.3 any claim by any trade union or other body or person in respect of any Transferring Supplier Employees arising from or connected with the Supplier or a Sub-contractor to comply with any requirement of a trade union, body or person arising on or before the Service Transfer Date;

2.3.4 any proceeding, claim or demand by HMRC or other authority in respect of any financial obligation including, but not limited to, primary and secondary national insurance contributions;

(a) in relation to any Transferring Supplier Employee in respect of whom the proceeding, claim or demand by HMRC or other authority relates to financial obligations arising on or after the Service Transfer Date; and

(b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is laid down in the Regulations that the Employment Regulations applied to him or her on or after the Service Transfer Date;

this Call Off Contract and/or the Employment Regulations and the Employment Rights Directive; and

2.3.7 any claim made by or in respect of a Transferring Supplier Employee or appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee arising from an omission of the Supplier or any Sub-contractor in breach of regulation 13 of the Employment Regulations, where the liability arises from the failure by the Customer or the Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Liabilities arise or are attributable to an act or omission of the Supplier and/or any Replacement Sub-contractor whether occurring before, on or after the Service Transfer Date, including any

2.4.1 arising out of the resignation of any Transferring Supplier Employee after the Service Transfer Date on account of substantial changes to his/her working conditions proposed by the Replacement Supplier or Replacement Sub-contractor to occur in the period commencing on the Service Transfer Date); or

2.4.2 arising from the Replacement Supplier's failure, or any Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not a Transferring Supplier Employee or appropriate employee representative in relation to any person who is not a Transferring Supplier Employee whose contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive

2.5.1 the Customer shall procure that the Replacement Supplier or Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

2.5.2 the Supplier may offer (or may procure that a Replacement Supplier may offer) such employment to such person within 15 Working Days of the Service Transfer Date. The Replacement Supplier and/or any and/or Replacement Sub-contractor shall take such other reasonable steps as it considers appropriate to ensure that such person is provided always that such steps are in compliance with the Employment Regulations.

2.6 If such offer is accepted, or if the situation has otherwise

applicable proper employment procedures set out in applicable law. The Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment under the provisions of Paragraph 2.7 provided that the Replacement Supplier shall procure that the Replacement Sub-contractor takes, all reasonable steps to ensure any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

(i) discrimination, including on the grounds of race, sex, religion, disability, age, gender reassignment, pregnancy and maternity, partnership, pregnancy and maternity, orientation, religion or belief

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term workers

in any case in relation to any alleged breach of the Equality Act 2010 by the Replacement Supplier and/or Replacement Sub-contractor

(b) any claim that the termination of employment by the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure

2.9.2 shall apply only where the notification referred to in Paragraph 2.8 is given by the Replacement Supplier and/or Replacement Sub-contractor to the Replacement Supplier within 6 months of the Service Transfer Date

2.10 If any such person as is described in Paragraph 2.5 is not a Transferring Supplier or any Sub-contractor nor dismissed by the Replacement Supplier or Replacement Sub-contractor within the time scales set out in Paragraph 2.8, such person shall be treated as a Transferring Supplier or Transferring Sub-contractor of the Replacement Supplier and/or Replacement Sub-contractor and shall be subject to the same obligations as may be imposed upon it under applicable Law

2.11 The Supplier shall comply, and shall procure that each Transferring Supplier and Sub-contractor shall comply, with all its obligations under the Employment Regulations 1996 and discharge, and shall procure that each Sub-contractor shall comply and discharge, all its obligations in respect of the Transferring Supplier and on the Service Transfer Date (including the payment of any such obligations)

information as is necessary to enable the Supplier and each of them to carry out their respective duties under regulation 13 of the Employment Rights Act 1996;

2.13 Subject to Paragraph 2.14, the Customer shall procure that the Supplier indemnifies the Supplier on its own behalf, the Replacement Sub-contractor and its sub-contractors, against all Claims and Liabilities in respect of each Transferring Supplier Employee (including any employee representative (as defined in the Employment Rights Act 1996) or Transferring Supplier Employee) arising from or as a result of:

2.13.1 any act or omission of the Replacement Supplier or its sub-contractor;

2.13.2 the breach or non-observance by the Replacement Supplier or Replacement Sub-contractor on or after the Service Date of:

(a) any collective agreement applicable to the Replacement Supplier's Employees; and/or

(b) any custom or practice in respect of a particular class of the Replacement Supplier's Employees which the Replacement Supplier or Replacement Sub-contractor is contractually bound to observe;

2.13.3 any claim by any trade union or other body or person in respect of Transferring Supplier Employees arising from or as a result of the Replacement Supplier and/or Replacement Sub-contractor's failure to observe any legal obligation to such trade union, body or person in force on the Relevant Transfer Date;

2.13.4 any proposal by the Replacement Supplier or its sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees (including the Replacement Supplier or Replacement Sub-contractor) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would be a Transferring Supplier Employee but for their resignation or resignation of their employment as terminated under regulation 13 of the Employment Rights Act 1996 (Regulations) before the Relevant Transfer Date as a result of or connected to such proposed changes;

2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in relation to, any Transferring Supplier Employee or Transferring Supplier Employee's representative on or after the Relevant Transfer Date;

proceeding, claim or demand by HMRC or
relates to financial obligations arising after

- 2.13.7 a failure of the Replacement Supplier or Replacement Supplier to discharge or procure the discharge of all wages, salaries and all PAYE tax deductions and national insurance contributions of the Transferring Supplier Employees in respect of (including) the Service Transfer Date; and
- 2.13.8 any claim made by or in respect of a Transferring Supplier appropriate employee representative (as defined in the Regulations) of any Transferring Supplier Employee arising from an omission of the Replacement Supplier or Replacement Supplier in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that Liabilities arise or are attributable to an act or omission of a Sub-contractor (as applicable) whether occurring or having occurred after the Relevant Transfer Date, including any Employee Liability arising from a failure by the Supplier and/or any Sub-contractor (as applicable) to fulfil obligations under the Employment Regulations.

ANNEX: LIST OF NOTIFIED SUB-CONTRACTORS

Not used

CALL OFF SCHEDULE 12: DISPUTE RESOLUTION

1. DEFINITIONS

1.1 In this Call Off Schedule 12, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution, 70 Fleet Street, London EC4A 3DF
"Counter Notice"	has the meaning given to it in clause 10 of this Call Off Schedule
"Exception"	a deviation of performance from the terms of the Services in accordance with PRINCIPLE 10 in respect of this Call Off Schedule; and
"Expert"	the person appointed in accordance with paragraph 10 of this Call Off Schedule 12; and
"Mediation Notice"	has the meaning given to it in clause 10 of this Call Off Schedule
"Mediator"	the independent third party appointed in accordance with paragraph 10 of this Call Off Schedule 12.

2. INTRODUCTION

2.1 If a Dispute arises then:

- 21.1 the representative of the Customer and the Supplier shall attempt in good faith to resolve the Dispute; and
- 21.2 if such attempts are not successful within a reasonable period of time, the Supplier shall give to the other a Dispute Notice.

- 241 first by commercial negotiation (as prescribed in paragraph 4.1 of the Call Off Schedule);
 - 242 then by mediation (as prescribed in paragraph 4.2 of the Call Off Schedule) and
 - 243 lastly by recourse to arbitration (as prescribed in paragraph 5.1 of the Call Off Schedule) or litigation (in accordance with Clause 5.2 of the Call Off Schedule) (Governing Law and Jurisdiction)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 5 of this Call Off Schedule) where specified under the Call Off Contract and may also be referred to Expert Determination where appropriate as specified in paragraph 5 of this Call Off Schedule.
- 2.6 In exceptional circumstances where the use of the timescales set out in paragraph 2.5 would be unreasonable, including (by way of example) where the Customer would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to agree on whether to use of the Expedited Dispute Timetable within the period specified in paragraph 2.5 of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Customer.
- 2.7 If the use of the Expedited Dispute Timetable is determined under paragraph 2.5 or is otherwise specified under the provisions of this Clause, then the following periods of time shall apply in lieu of the periods set out in the applicable paragraphs:
- 271 in paragraph 3.2.3, ten (10) Working Days;
 - 272 in paragraph 4.2, ten (10) Working Days;
 - 273 in paragraph 5.2, five (5) Working Days; and
 - 274 in paragraph 6.2, ten (10) Working Days.
- 2.8 If at any point it becomes clear that an applicable deadline has been passed, the Parties may (but shall be under no obligation to) agree to extend the deadline. Any agreed extension shall have the effect of extending the period of the subsequent stages by the period agreed in the extension.

3. COMMERCIAL NEGOTIATIONS

3.1 Following the service of a Dispute Notice, the Customer

4. MEDIATION

- 4.1 If a Mediation Notice is served, the Parties shall attempt to resolve the Dispute in accordance with CEDR's Model Mediation Agreement which is incorporated by reference into this Call Off Contract.
- 4.2 If the Parties are unable to agree on the joint appointment of a Mediator, then within (30) Working Days from service of the Mediation Notice the Parties shall refer the Dispute to CEDR to nominate the Mediator.
- 4.3 If the Parties are unable to reach a settlement in the negotiation, then and only if the Parties so request and the Mediator so agrees, the Mediator shall produce for the Parties a non-binding recommendation on how to resolve the Dispute. The Mediator shall not attempt to anticipate what a court might order. The Mediator's recommendations which the Mediator suggests are appropriate settlement terms in all the circumstances.
- 4.4 Any settlement reached in the mediation shall not be legally binding until it is reduced to writing and signed by, or on behalf of, the Parties (or by the Variation Procedure where appropriate). The Mediator shall prepare a report recording the outcome of the mediation.

5. EXPERT DETERMINATION

- 5.1 If a Dispute relates to any aspect of the technology under the Contract or the Services or otherwise relates to a financial technical or commercial matter of a nature (as the Parties may agree) and the Dispute has not been resolved by discussion or mediation, then either Party may request the other Party to refer the Dispute (if unreasonably withheld or delayed) by written notice to the other Party to be referred to an Expert for determination.
- 5.2 The Expert shall be appointed by agreement in writing by the Parties. In the event of a failure to agree within ten (10) Working Days of the Dispute being referred, the Expert shall be appointed by the relevant professional body. If the Expert so appointed is unable or unwilling to act, the Expert shall be appointed by the relevant professional body in accordance with the instructions of the relevant professional body.
- 5.3 The Expert shall act on the following basis:
 - 5.31 he/she shall act as an expert and not as an arbitrator and shall act impartially;
 - 5.32 the Expert's determination shall (in the absence of any agreement to the contrary) be final and binding on the Parties.

6.1 The Customer may at any time before court proceedings commence the Dispute to arbitration in accordance with the provisions of paragraph 6.4 of this Call Off Schedule.

6.2 Before the Supplier commences court proceedings or arbitration, the Supplier shall give written notice on the Customer of its intentions and the Customer shall have (15) Working Days following receipt of such notice to serve a Counter Notice (“**Counter Notice**”) on the Supplier requiring the Dispute to be referred to arbitration in accordance with paragraph 6.4 of this Call Off Schedule. If the Customer fails to do so, the Dispute shall be referred to the jurisdiction of the courts in accordance with Clause 58 of this Call Off Schedule (Governing Law and Jurisdiction). The Supplier shall commence court proceedings or arbitration until the expiry of such fifteen (15) Working Days.

6.3 If:

6.3.1 the Counter Notice requires the Dispute to be referred to arbitration in accordance with the provisions of paragraph 6.4 of this Call Off Schedule;

6.3.2 the Counter Notice requires the Dispute to be referred to the jurisdiction of the courts in accordance with Clause 58 of this Call Off Schedule (Governing Law and Jurisdiction), the Dispute shall be referred to the jurisdiction of the courts and the Supplier shall not commence arbitration;

6.3.3 the Customer does not serve a Counter Notice within the fifteen (15) Working Days period referred to in paragraph 6.2 of this Call Off Schedule, the Customer may either commence arbitration proceedings in accordance with paragraph 6.4 of this Call Off Schedule or commence court proceedings in accordance with Clause 58 of this Call Off Schedule (Governing Law and Jurisdiction) which shall (in those circumstances) be referred to the jurisdiction of the courts.

6.4 In the event that any arbitration proceedings are commenced in accordance with paragraphs 6.1 to 6.3 of this Call Off Schedule, the Parties shall agree:

6.4.1 all disputes, issues or claims arising out of or in connection with the Contract (including as to its existence, validity or performance) shall be referred to and finally resolved by arbitration under the Rules of the International Court of International Arbitration (“**LCIA**”) (subject to the provisions of paragraph 6.4.7 of this Call Off Schedule);

6.4.2 the arbitration shall be administered by the LCIA;

6.4.3 the LCIA procedural rules in force at the date that the Dispute is referred to arbitration shall apply.

- 7.1 Either Party may at any time take proceedings or seek relief from a tribunal of competent jurisdiction:
 - 7.1.1 for interim or interlocutory remedies in relation to an alleged infringement by the other Party of that Party's Intellectual Property Rights and/or
 - 7.1.2 where compliance with paragraph 2.1 of this Call Of Arbitration and the Dispute to mediation may leave insufficient time for the Party to commence proceedings before the expiry of the limitation period.

CALL OFF SCHEDULE 13: VARIATION FORM

No of Order Form being varied:

.....

Variation Form No:

.....

BETWEEN:

name of Customer ("**the Customer**")

and

name of Supplier ("**the Supplier**")

1. This Call Off Contract is varied as follows and shall take effect from the date of this Variation Form for both Parties:
2. Words and expressions in this Variation shall have the meaning ascribed to them in the Call off Contract.
3. This Call off Contract, including any previous Variations, shall remain in full force and effect, unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of

Signature

Date

Name (in
Capitals)

CALL OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDIT

1. NO BLAME 6 MONTH BREAK CLAUSE

- 1.1 In the event that the Customer shall desire to terminate th
at or at any time after the end of the first six months thereo
not less than one months previous notice in writing and s
determination pay the Supplier and observe and perf
obligations on the Customers part.

CALL OFF SCHEDULE 15: MOD DEFCONS AND D

Not used