 

**G-CLOUD 8 CALL-OFF CONTRACT**

**Between Department for Education**

**and**

**Fujitsu Services Ltd**

**for the provision of**

**Digital Transformation and Iterative Development Services**

**Final**

This Call-Off Contract for the G-Cloud 8 Framework Agreement (RM1557viii) includes:

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## Part A - Order Form

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| --- | --- |
| **Buyer** | The Secretary of State for the Department for Education |
| **Service reference** | Iterative and Adaptive Cloud Transformation  (service ID: 884731411164819) |
| **Supplier** | Fujitsu Services Ltd |
| **Call-Off Contract ref.** | **ICT 2017/015** |
| **Call-Off Contract title** | Data Transformation Services |
| **G-Cloud Framework No.** | RM 1557viii |
| **Call-Off Contract description** | The provision of a specialist Data Transformation and Iterative Development Service to assist the Buyer to deliver a range of digital projects and to assist the Buyer in building its own digital capabilities  A contract of up to one year, extendable by one year, shall be awarded, during which time the DfE shall call off the requirements via work packages. These work packages shall be commissioned via a Request for Quote process. |
| **Start date** | 1st May 2017 |
| **End date** | 30th April 2018 (with the option to extend for 1 year until 30th April 2019)  Notice of the Buyer’s intention to extend the contract beyond 30th April 2018 shall be given to the Supplier in writing no later than 24th February 2018. |
| **Call-Off Contract value** | Approx. £4.5 million per year (but this will be used via a call off arrangement so there is no guarantee of this level of spend) |
| **Charging method** | Fixed price for each work package commissioned. |
| **Purchase order No.** | TBC |

This Order Form is issued in accordance with the G-Cloud 8 Framework Agreement (RM1557viii).

This Order Form may be used by Buyers to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any supplementary terms that materially change the Deliverables offered by the Supplier and defined in the Tender documents, such as the Service Definition and the Supplier Terms.

There are terms within the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with the use of square brackets e.g. “[this is a term you can alter]”.

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| **Project reference: ICT 2017/015**  **Buyer reference: Department for Education**   |  |  | | --- | --- | | **Order date:** | 1st May 2017 | | **Purchase order:** | TBC | | **From: the Buyer** | **[redacted]**  **[redacted]**  **[redacted]**  **[redacted]**  **[redacted]** | | **To: the Supplier** | **[redacted]**  **[redacted]**  **[redacted]**  **[redacted]**  **Company number: [redacted]** | | **Together:** | **The parties** | |

**Principle contact details**

|  |  |  |
| --- | --- | --- |
| For the Buyer: | Name & title: | **[redacted]**  **[redacted]**  **[redacted]**  **[redacted]**  **[redacted]** |
| Email: | **[redacted]** |
| Phone: | **[redacted]** |
| For the  supplier | Name & title: | **[redacted]** |
| Email: | **[redacted]** |
| Phone: | **[redacted]** |

**Call-off contract term**

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| **Commencement date:** | This Call-Off Contract commences on 1st May 2017 and is valid for 1 year until 30th April 2018 with the option to extend for a further 1 year until 30th April 2019. |
| **Termination:** | In accordance with Call-Off Contract clause 23 the notice period required for Termination is at least [90] working days from the date of written notice for disputed sums or at least [30] days from the date of written notice for termination without cause. |
| **Buyer contractual details**  This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services utilized by Buyer may vary from time to time during the course of this Call-Off Contract, subject always to the terms of the Call-Off Contract.  All requests for work, within scope of the agreement, shall be initiated by an authorised employee of the Customer by means of a ‘Request for Quote’ (RFQ) which will be emailed to the Supplier’s nominated representative. The work will be in the form of individual work packages, detailing the specific requirement and timescales needed. This RFQ shall be evaluated against other responses received and if successful the activities, outcomes, delivery and payment profile agreed. The payment profile for each work package will be linked where appropriate, to the milestones and outputs agreed between the Customer and Supplier before work initiation.  The Request for Quote template is included at Annex A | |
| **G-Cloud 8 Lot** | This Call-Off Contract is for the provision of Services under  **Lot 4 Specialist Cloud Services** |
| **G-Cloud 8 services required:** | The Services to be provided by the Supplier under the above Lot are listed in Schedule 1 and outlined below:  ‘Digital Transformation and Iterative Development’ key services to be delivered through this call off contract includes, but are not limited to:    -          Digital services – in both development and support of new/existing services  -          Technical expertise to support digital services  -          Agile methodologies – particularly scrum  -          Business Transformation and change services  -          End to end digital, data and technology project lifecycle  -          Flexibility to support both full deployment of teams and/or specific roles to fill capability gaps  -          Digital communications  -          Digital content design, development and publishing  -          End to end digital content    The types of Digital, Data & Technology services, teams and roles that are expected to be supported through this call off contract includes, but are not limited to:  -          Business Analysts  -          Delivery Managers  -          Product Managers/Owners  -          Digital Service Managers  -          User Researchers  -          User Experience Designers  -          Service Designers  -          Content Designers  -          Interaction Designers  -          Architects (enterprise, solution, technical)  -          Software Engineers – front & back end  -          Systems analysts  -          Change/Transformation Managers  -          Scrum Masters  -          Automation/QA Testers  -          Agile Coaches  -          Performance Analysts  -          Cloud Infrastructure Services  -          Range of different digital, cloud, technology developers  In providing the resource to deliver all of the above the Specialist Service Provider shall:   * use its own initiative as to the manner in which services are to be delivered * not be supervised, directed or controlled regarding how the services are delivered * use its own equipment where security requirements permit * be expected to provide the services on such hours/days as required to meet any deadlines, as agreed between the Specialist Service   Provider and the Buyer   * provide the necessary resources to support the Services which shall include one or more specialists * link the payment to outputs and deliverables   The Buyer is willing to accept substitute personnel with the relevant skills and expertise |
| **Additional Services:** | N/A |
| **Location:** | The Supplier’s representatives may be required to attend meetings at DfE Office locations: London, Coventry, Sheffield, Manchester, Darlington, Nottingham  Choice of premises shall be determined by the Customer, in consultation with the Supplier and may take into account the Customer’s intention to keep overall cost of Travel and Subsistence for all parties to a practical minimum. |
| **Quality standards:** | The quality standards required for this Call-Off Contract are in line with the suppliers service offering. The Supplier warrants that it will carry out the services with reasonable care and skill and that all services supplied hereunder shall be of satisfactory quality and fit for the particular purpose for which they are supplied with reference to the Buyer’s requirements and in line with G-Cloud viii offerings; |
| **Technical standards** | The technical standards required for this Call-Off Contract are in line with the suppliers service offering |
| **On-boarding** | The on-boarding plan for this Call-Off Contract is:  \* Customer and Supplier shall attend a start-up meeting with representatives of the Customer (date to be agreed between Customer and Supplier.) At this meeting the agenda will include but not be limited to: the contract call off procedure and the Request for Quote Template; future contract management arrangements; requirements for reporting of Management Information consistent with clause 10 the framework agreement (if any); and a forward schedule of meeting dates.  \* As a minimum, the Supplier’s Account Manager for the DfE shall attend and fully participate in agreed contract and service review meetings chaired by the Customer. The agenda for this meeting will be issued to participants at least three (3) working days in advance of the meeting and include a monthly Service Report produced by the Supplier. Frequency of meetings to be agreed  \* The detailed content of the Service report shall include as a minimum: progress against delivery of all work packages, forward and retrospective resource plan, risks and issues log, financial reporting, incidents and service failure log; quality assurance. |
| **Off-boarding** | The off-boarding plan for this Call-Off Contract will be agreed between both parties 2 months prior to the termination of the contract. All documentation that has been produced on behalf of the Buyer shall be duly provided to the Buyer. |
| **Limit on supplier’s liability:** | In accordance with Call-Off Contract clause 31.5, the Limit on supplier’s liability for direct loss, destruction, corruption, degradation or damage to the Buyer Data or the Buyer Personal Data or any copy of such Buyer Data is one hundred and twenty five percent (125%) of the Charges payable by the Buyer to the Supplier during the Call Off Agreement Period |
| **Insurance:** | In accordance with Call-Off Contract clause 10, the insurance(s) required will be:   * a minimum insurance period of [6 years] following the expiration or earlier termination of this Call-Off Contract, * professional indemnity insurance cover to be held by the Supplier and by any agent, Sub-Contractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or such higher limit as the Buyer may reasonably require (and as required by Law) * employers' liability insurance with a minimum limit of £5,000,000 or such higher minimum limit as required by Law from time to time. |
| **Buyer’s Responsibilities** | The Buyer’s responsibility shall be agreed for each specific work package. In general the Buyer will be responsible for:   * reviewing resource activities and deliverables and accepting timesheets/invoices for work against tasks and deliverables, * Working with the Supplier in order that any required resources, documentation and access to relevant sites will be made available to support the achievement of activities and production of deliverables. * ensuring payment of all valid invoices within 30 days of receipt |
| **Buyer’s equipment** | There is no expectation that the Buyer’s equipment will be issued as part of this agreement. In the event that equipment is issued this shall be recorded through the work package, and the Buyer’s special terms will apply. |
| **Supplier’s information** | |
| **Commercially sensitive information:** | The following is a list of the Supplier’s commercially sensitive information:  N/A |
| **Subcontractors / Partners:** | The following is a list of the Supplier’s Subcontractors/Partners:  AvePoint  Surya  Avnet  Evosys  Certus  eSynergy |
| **Call-Off Contract Charges and payment** | |
| The Call-Off Contract charges and payment details are below. See Schedule 2 for a full breakdown. | |
| **Payment method** (GPC or BACS): | The Customer will pay the Supplier via BACS for services/outputs delivered as detailed in the RFQ for each work package. This shall include any applicable discount but exclude Vat. |
| **Payment profile:** | The payment profile for this Call-Off Contract is monthly in arrears for services delivered. Milestone payments shall be charged in accordance with the agreed Agenda for Change rate card. |
| **Invoice details:** | The Supplier shall issue hard copy invoices in arrears, on satisfactory completion of agreed activities within a work package. The Buyer shall pay the Supplier within thirty (30) calendar days of receipt of a valid invoice, submitted in accordance with this paragraph 6.2 and the payment profile set out in each RFQ and the provisions of this Call-Off Agreement. |
| **Who and where to send invoices to:** | Electronic copies shall be sent to:    [SSCL.POINVOICEPAYMENTS@DWP.GSI.GOV.UK](mailto:SSCL.POINVOICEPAYMENTS@DWP.GSI.GOV.UK) |
| **Invoice information required –** eg PO, project ref, etc. | All invoices must include:   * the correct sum (in £ sterling) * the correct terms of services/goods supplied * a unique invoice number * a valid purchase order number * correct Supplier details, date and contact details * Have been delivered to the nominated address * Have been delivered in timing in accordance of the contract   All queries regarding payments or the settlement of invoices shall be directed to the team or project that placed the Purchase Order. General invoice and payment enquires must be directed to the Contract Manager. |
| **Invoice frequency** | A copy invoice shall be emailed simultaneously to the DfE Customer to enable the Customer to take receipting action. |
| **Call-Off Contract value:** | The value of this Call-Off Contract is approx. £4.5 million per year although this is via a call off procedure so there is no guarantee for this work. |
| **Call-Off Contract Charges:** | All work undertaken through this contract will conform to the SFIA rate card associated with this GCloud offering and the fixed price shall reflect these rates and number of days to deliver each milestone/work package. |

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| **Additional Buyer terms** |

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| **Performance of the service and deliverables** | The table within Part B Schedule 1 – Deliverable provides detail on the services within scope of this call off agreement.  Each work package commissioned under the RfQ template will detail the specific activities and milestones associated to the work and this will be used for monitoring delivery against milestones and payment. |
| **Collaboration agreement** | The Buyer does not require the Supplier to enter into a Collaboration Agreement although the Supplier shall:   * work pro-actively with each of the Buyer’s contractors * cooperate with the Buyer’s contractors of other services to enable the efficient operation of the ICT services, and * assist in sharing information with the Buyer’s contractors for the purposes of facilitating adequate provision of the G-Cloud Services] |
| **Warranties, representations** | Only those warranties specified in Clause 6 apply. |
| **Supplemental requirements in addition to the call-off terms** | In accordance with Call-Off Contract clauses, the Supplier has agreed to unqualified acceptance of the Buyers Special Terms as these will apply to the G-Cloud Call-Off Contract terms – as set out in the DfE Special Terms document attached at Annex B. |
| **Buyer specific amendments to/refinements of the Call-Off Contract terms** | No amendments/refinements have been made to the Call Off Contract Terms |
| **Public Services Network (PSN)** | NA |

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| **Formation of Contract** | |
| 1. **Formation of the Contract**    1. By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer. |  |
| * 1. The parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract. |  |
| * 1. In accordance with the Buying process set out in the Framework Agreement, this Call-Off Contract will be formed when the Buyer acknowledges the receipt of the signed copy of the Order Form from the Supplier.   2. The terms and conditions of the Call-Off Contract and Order Form will supersede those of the Supplier Terms and Conditions.  1. **Background to the agreement**   (A) The Supplier is a provider of G-Cloud Services and undertook to provide such Services under the terms set out in Framework Agreement number RM1557viii (the “Framework Agreement”).  (B) The Buyer served an Order Form for Services to the Supplier. |  |

**SIGNED:**

|  |  |  |
| --- | --- | --- |
|  | **Supplier:** | **Buyer:** |
| Name: |  |  |
| Title: |  |  |
| Signature: |  |  |
| Date: |  |  |

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## Part B - The Schedules

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# Schedule 1 - Deliverable

The detailed breakdown for the provision of Services during the term of will include (but will not be limited to):

Digital Transformation and Iterative Development’ key services to be delivered through this call off contract includes, but are not limited to:

-          Digital services – in both development and support of new/existing services

-          Technical expertise to support digital services

-          Agile methodologies – particularly scrum

-          Business Transformation and change services

-          End to end digital, data and technology project lifecycle

-          Flexibility to support both full deployment of teams and/or specific roles to fill capability gaps

-          Digital communications

-          Digital content design, development and publishing

-          End to end digital content

The types of Digital, Data & Technology services, teams and roles that are expected to be supported through this call off contract includes, but are not limited to:

-          Business Analysts

-          Delivery Managers

-          Product Managers/Owners

-          Digital Service Managers

-          User Researchers

-          User Experience Designers

-          Service Designers

-          Content Designers

-          Interaction Designers

-          Architects (enterprise, solution, technical)

-          Software Engineers – front & back end

-          Systems analysts

-          Change/Transformation Managers

-          Scrum Masters

-          Automation/QA Testers

-          Agile Coaches

-          Performance Analysts

-          Cloud Infrastructure Services

-          Range of different digital, cloud, technology developers

Each work package commissioned under the RfQ template will detail the specific activities and milestones associated to the work and this will be used for monitoring delivery against milestones and payment.

A separate implementation plan shall not be required, unless agreed between the Customer and Supplier

If so required by the Buyer, the Supplier shall produce within one (1) Month of the Commencement Date an Implementation Plan (based on the confirmed work listed below) in such further detail as the Buyer may reasonably require. Thereafter each RFQ will detail the deliverables associated with that work package.

The Supplier shall ensure that each version of the Implementation Plan is subject to the Buyer’s written approval.

The Supplier shall ensure that the Implementation Plan is maintained and updated on a regular basis as may be necessary to reflect the then current state of the implementation transition and/or transformation of the G-Cloud Services. Reflecting the details from the RFQs received and acted upon.

The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

The Supplier shall perform its obligations so as to achieve each milestone by the milestone date.

Changes to the milestones shall only be made when approved by both Parties and invoked using a variation procedure.

## Schedule 2 - Call-Off Contract Charges

For each individual Service, the applicable Call-OffContract Charges (in accordance with the Supplier’s Digital Marketplace pricing document) cannot be amended during the term of the Call-Off Contract.

Each work package commissioned under the RfQ template will detail the specific activities and milestones associated to the work and this will be used for monitoring delivery against milestones and payment.

All work packages will be priced on a fixed cost basis but the breakdown of cost per deliverable will be shown on the RFQ.





The Supplier shall work with the Customer to minimise the impact on the public purse for T&S associated with the operation of this contract.

Unless otherwise provided for under the Supplier’s G-Cloud vII framework offering, a,nd/or the Supplier has an office in close proximity to one of the Customer’s office where a meeting is to be held (approx. 25 miles radius), if expenditure on T&S is identified as being necessary, T&S will be paid at the level commensurate with the DfE rate in place at the time the expenditure is incurred. DfE rates in place as at April 2017 are listed below:

* Hotel accommodation bed and breakfast – London £110.00 including VAT and elsewhere £75.00 including VAT
* Rail travel shall be restricted to standard class
* Car mileage at the ‘Public Transport Rate’ of 0.25p per mile
* Taxis only payable where their use can be justified against using public transport

No other out of pocket expenses shall be allowable.

## Schedule 3 - Deed of guarantee – Not used

## Schedule 4 - Alternative Clauses - Not used

## Part C – Terms and conditions

## Call-Off Contract start date, length and methodology

1.1 The Supplier will start providing the Services on the date specified in the Order Form.

1.2 This Call-Off Contract will terminate on the End Date specified in the Order Form unless terminated earlier in accordance with Clause 23 and will be a maximum of 24 months from the Commencement Date.

## 2. Overriding provisions

2.1 The Supplier agrees to supply the G-Cloud Services [and any Additional Services (Lot 4 only)] in accordance with this Call-Off Contract and the Supplier’s Terms as identified in the Framework Agreement (G-Cloud Services) and incorporated into this Call-Off Contract.

2.2 In the event of and only to the extent of any conflict or ambiguity between the Clauses of this Call-Off Contract, the provisions of the Schedules, any document referred to in the Clauses of this Call-Off Contract (including Supplier’s Terms) and the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:

* the Framework Agreement
* the Clauses of this Call-Off Contract (excluding Supplier Terms)
* the completed Order Form
* the Supplier's Terms and Conditions, and
* any other document referred to in the Clauses of this Call-Off Contract.

The Supplier accepts this is the order of prevailing provisions in this Call-Off Contract.

## 3. Transfer and sub-contracting

3.1 The Supplier will not assign, novate or sub-contract any part-of this Call-Off Contract without the Buyer’s prior written approval which shall not be unreasonably withheld or delayed.

3.2 The Supplier will be responsible for the performance of any Sub-Contractors.

3.3 The Buyer may assign, novate or otherwise dispose of its rights and obligations under this Call-Off Contract or any part thereof to:

* any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Buyer, or
* any private sector body which substantially performs the functions of the Buyer

provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier’s obligations under this Call-Off Contract.

## 4. Supplier Staff

4.1 The Supplier Staff will:

* fulfil all reasonable requests of the Buyer
* apply all due skill, care and diligence to the provisions of the Services
* be appropriately experienced, qualified and trained to supply the Services
* respond to any enquiries about the Services as soon as reasonably possible
* complete any necessary vetting procedures specified by the Buyer
* Comply with the provisions of the Official Secrets Act 1911 to 1989; and
* Section 182 of the Finance Act 1989.

## 5. Due diligence

5.1 Both Parties agree that when entering into a Call-Off Contract, they:

5.2.1 having made their own enquiries are satisfied by the accuracy of any information supplied by the other Party

5.2.2 are confident that they can fulfil their obligations according to the terms of this Call-Off Contract

5.2.3 have entered into this Call-Off Contract relying on their own due diligence

## 6. Warranties, representations and acceptance criteria

6.1 The Supplier will perform its obligations under this Call-Off Contract with all reasonable care, skill and diligence, according to Good Industry Practice.

6.2 The Supplier will use all reasonable endeavours to prevent the introduction, creation or propagation of any disruptive elements into systems providing services to data, software or Authority Confidential Information held in electronic form.

6.3 The Supplier undertakes to the Buyer that each G-Cloud Service will meet the Buyer’s acceptance criteria, as defined in the Call-Off Contract Order Form.

6.4 The Supplier warrants that it has full capacity and authority and all necessary authorisations, consents, licences and permissions and Intellectual Property Rights to perform this Call-Off Contract.

6.5 The Supplier represents that, in entering into this Call-Off Contract it has not committed any Fraud.

6.6 The Supplier undertakes to pay all taxes due from it to HMRC and will not indulge in “disguised employment” practices when delivering services under this Call-Off Contract, and

6.7 For the avoidance of doubt, the fact that any provision within this Call-Off Contract is expressed as a warranty shall not preclude any right of termination the Buyer may have in respect of breach of that provision by the Supplier.

## 7. Business continuity and disaster recovery

7.1 The Supplier will ensure a disaster recovery approach is captured in a clear disaster recovery plan contained within their service descriptions where appropriate and required by the Buyer.

## 8. Payment terms and VAT

8.1 The Buyer will pay the Supplier within 30 days of receipt of a valid invoice submitted by the Supplier in accordance with this Call-Off Contract.

8.2 The Call-Off Contract Charges are deemed to include all Charges for payment processing. All Invoices submitted to the Buyer for the Services shall be exclusive of any Management Charge.

8.3 All charges payable by the Buyer to the Supplier shall include VAT at the appropriate rate.

8.4 The Supplier will add VAT to the charges at the appropriate rate.

8.5 Where specified within the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and shall not recover this charge from the Buyer.

8.6 The Supplier will ensure that each invoice contains all appropriate references and a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.

8.7 Supplier Sub-Contracts must oblige the Supplier to make payments to its Sub-Contractor within 30 calendar days from the receipt of a valid invoice.

8.8 The Supplier shall indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier shall pay all monies pursuant to this indemnity to the Buyer not less than 5 UK working days before the date upon which the tax or other liability is payable by the Buyer.

8.9 The Supplier shall not suspend the supply of the G-Cloud Services for Buyer’s failure to pay undisputed sums of money unless the Supplier is entitled to suspend or terminate this Call-Off Contract. Interest shall be payable by the Buyer on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended from time to time).

8.10 In the event of a disputed invoice, the Buyer shall make payment in respect of any undisputed amount in accordance with the provisions of this Call-Off Contract and return the invoice to the Supplier within 10 UK working days of receipt with a covering statement proposing amendments to the invoice and/or the reason for any non-payment. The Supplier shall respond within 10 UK working days of receipt of the returned invoice stating whether or not the Supplier accepts the Buyer’s proposed amendments. If it does then the Supplier shall supply with the response a replacement valid invoice.

## 9. Recovery of sums due and right of set-off

9.1 If a Supplier owes money to the Buyer, the Buyer may deduct that sum from the Call-Off Contract Charges due.

## 10. Insurance

The Supplier will maintain the insurances required by the Buyer including those set out in this clause.

10.1 Subcontractors

10.1.1 The Supplier will ensure that, during this Call-Off Contract, Subcontractors hold third-party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000.

10.2 Agents and professional consultants

10.2.1 The Supplier will also ensure that all agents and professional consultants involved in the supply of Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the termination or expiry date to this Call-Off Contract to which the insurance relates.

10.2.2 The Supplier will also ensure that all agents and professional consultants involved in the supply of Services hold employers liability insurance to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the termination or expiry date to this Call-Off Contract to which the insurance relates.

10.3 Additional or extended insurance

10.3.1 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing insurance policies procured under the Framework Agreement.

10.3.2 The Supplier will provide CCS and the Buyer with the following evidence that they have complied with clause 10.3.1 above:

* a broker's verification of insurance; or
* receipts in respect of the insurance premium; or
* other evidence of payment of the latest premiums due.

10.4 Supplier liabilities

10.4.1 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract.

10.4.2 The Supplier will:

* take all risk control measures relating to the Services as it would be reasonable to expect of a contractor acting in accordance with Good Industry Practice, including the investigation and reports of claims to insurers;
* promptly notify the insurers in writing of any relevant material fact under any insurances of which the Supplier is, or becomes, aware; and
* hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of placing cover representing any of the insurance to which it is a Party.

10.4.3 The Supplier will not do or omit to do anything, which would vitiate any of the insurances.

10.5 Indemnity to principals

10.5.1 Where specifically outlined in this Call-Off Contract, the Supplier will ensure that the third-party public and products liability policy will contain an ‘indemnity to principals’ clause under which the Buyer will be compensated for both of the following claims against the Buyer:

* death or bodily injury; and
* third-party Property damage arising from connection with the Services and for which the Supplier is legally liable.

10.6 Cancelled, suspended, terminated or unrenewed policies

10.6.1 The Supplier will notify CCS and any Buyers as soon as possible if the Supplier becomes aware that any of the insurance policies have been, or are due to be, cancelled, suspended, terminated or not renewed.

10.7 Premium, excess and deductible payments

10.7.1 Where any insurance requires payment of a premium, the Supplier will:

* be liable for the premium; and
* pay such premium promptly.

10.7.2 Where any insurance is subject to an excess or deductible below the Supplier will be liable for it. The Supplier will not be entitled to recover any sum paid for insurance excess or any deductible from CCS or the Buyer.

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# 11. Confidentiality

11.1 Except where disclosure is clearly permitted by this Call-Off Contract, neither Party will disclose the other Party’s Confidential Information without the relevant Party’s prior written consent.

11.2 Disclosure of Confidential Information is permitted where information:

* must be disclosed to comply with legal obligations placed on the Party making the disclosure
* belongs to the Party making the disclosure (who is not under any obligation of confidentiality) before its disclosure by the information owner
* was obtained from a third party who is not under any obligation of confidentiality, before receiving it from the disclosing Party
* is, or becomes, public knowledge, other than by breach of this clause or Call-Off Contract
* is independently developed without access to the other Party’s Confidential Information
* is disclosed to obtain confidential legal professional advice.

11.3 The Buyer may disclose the Supplier’s Confidential Information:

* to any central government body on the basis that the information may only be further disclosed to central government bodies;
* to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees;
* if the Buyer (acting reasonably) deems disclosure necessary or appropriate while carrying out its public functions;
* on a confidential basis to exercise its rights or comply with its obligations under this Call-Off Contract; or
* On a confidential basis to a proposed transferee, assignee or novatee of, or successor in title to, the Buyer.

11.4 References to disclosure on a confidential basis will mean disclosure subject to a confidentiality agreement or arrangement containing the same terms as those placed on the Buyer under this clause.

11.5 The Supplier may only disclose the Buyer’s Confidential Information to Supplier Staff who are directly involved in the provision of the Services and who need to know the information to provide the Services. The Supplier will ensure that its Supplier Staff will comply with these obligations.

11.6 Either Party may use techniques, ideas or knowledge gained during this Call-Off Contract unless the use of these things results in them disclosing the other Party’s Confidential Information where such disclosure is not permitted by the Framework Agreement, or is an infringement of Intellectual Property Rights.

11.7 Information about orders placed by a Buyer (including pricing information and the terms of any Call-Off Contract) may be published by CCS and may be shared with other Buyers. Where Confidential Information is shared with other Buyers, CCS will notify the recipient of the information that its contents are confidential.

# 12. Conflict of Interest

12.1 The Supplier will take all appropriate steps to ensure that Supplier Staff are not in a position where there is or may be an actual conflict between the financial or personal interests of the Supplier Staff and another Supplier where both are providing the Services to the Buyer under any Call-Off Contract in accordance with the Framework Agreement.

12.2 Any breach of this clause will be deemed to be a Material Breach.

12.3 A conflict of interest may arise in situations including where a member of the Supplier Staff:

* is related to someone in another Supplier team who both form part of the same team performing the Services under the Framework Agreement
* has a business interest in another Supplier who is part of the same team performing the Services under the Framework Agreement
* has been provided with, or had access to, information which would give the Supplier or an affiliated company an unfair advantage in the Tender process.

12.4 Where the Supplier identifies a risk of a conflict or potential conflict, they will (before starting work under this Call-Off Contract, unless otherwise agreed with the Buyer ) inform the Buyer of such conflicts of interest and how they plan to mitigate the risk. Details of such mitigation arrangements are to be sent to the Buyer as soon as possible. On receiving this notification, the Buyer will, at its sole discretion, notify the Supplier if the mitigation arrangements are acceptable or whether the risk or conflict remains a Material Breach.

# 13. Intellectual Property Rights

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13.1 The Supplier will have no rights to use any of the Buyer’s names, logos or trademarks without the Buyer’s prior written approval.

# 14. Data Protection and Disclosure

14.1 The Supplier shall comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Framework Agreement or under this Call-Off Contract.

14.2 Where the Supplier is processing Buyer Data or Other Contracting Bodies’ Personal Data, the Supplier shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the Authority and Other Contracting Bodies’ Personal Data (and to guard against unauthorised or unlawful processing or accidental loss, destruction of or damage to the Buyer Data and the Other Contracting Bodies’ Personal Data.

14.3 The Supplier shall provide the Buyer and/or Other Contracting Body with such information as the Buyer and/or Other Contracting Body may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA including;

* to promptly notify the Buyer and/or Other Contracting Body of any breach of the security measures to be put in place pursuant to this Clause; and
* to ensure that it does not knowingly or negligently do or omit to do anything which places the Buyer and/or Other Contracting Body in breach of its obligations under the DPA and
* not to cause or permit to be processed, stored, accessed or otherwise transferred outside the European Economic Area any Buyer Data or Other Contracting Body Personal Data supplied to it by the Buyer or Other Contracting Body without approval.

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## 15. Buyer Data

15.1 The Supplier will not remove any proprietary notices relating to the Buyer Data.

15.2 The Supplier will not store or use Buyer Data except where necessary to fulfill its obligations.

15.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested and in the format specified by the Buyer.

15.4 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.

15.5 The Supplier will ensure that any system which holds any Buyer Data complies with the security requirements prescribed by the Buyer.

15.6 The Supplier will ensure that any system on which the Supplier holds any protectively marked Buyer Data will be accredited as specific to the Buyer and will comply with:

* the government security policy framework and information assurance policy;
* guidance issued by the Centre for Protection of National Infrastructure on Risk Management and Accreditation of Information Systems; and
* the relevant government information assurance standard(s).

15.7 Where the duration of this Call-Off Contract exceeds one year, the Supplier will review the accreditation status at least once a year to assess whether material changes have occurred which could alter the original accreditation decision in relation to Buyer Data. If any changes have occurred then the Supplier will re-submit such system for accreditation.

15.8 If at any time the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost where such corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier or its representatives) comply with any remedial action proposed by the Buyer.

15.9 The Supplier will provide at the request of CCS or the Buyer, any information relating to the Supplier’s compliance with its obligations under the Data Protection Act (to the extent arising under and/or in connection with the Framework Agreement and this Call-Off Contract). The Supplier will also ensure that it does not knowingly or negligently fail to do something that places CCS or any Buyer in breach of its obligations of the Data Protection Act. This is an absolute obligation and is not qualified by any other provision of this Call-Off Contract.

15.10 The Supplier agrees to use the appropriate organisational, operational and technological processes and procedures to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

15.11 The provisions of this Clause 15 shall apply during the term of this Call-Off Contract and for such time as the Supplier holds the Buyer’s Data.

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## 16. Records and audit access

16.1 The Supplier will allow CCS (and CCS’s external auditor) to access its information and conduct audits of the Services provided under this Call-Off Contract and the provision of Management Information.

## 17. Freedom of Information (FOI) requests

17.1 The Supplier will transfer any Request for Information to the Buyer within 2 UK working days of receipt.

17.2 The Supplier will provide all necessary help reasonably requested by the Buyer to enable the Buyer to respond to the Request for Information within the time for compliance set out in section 10 of the Freedom of Information Act or Regulation 5 of the Environmental Information Regulations.

17.3 To the extent it is permissible and reasonably practical for it to do so, CCS will make reasonable efforts to notify the Supplier when it receives a relevant FOIA or EIR request so that the Supplier may make appropriate representations.

## 18. Standards and quality

18.1 The Supplier will comply with any standards in this Call-Off Contract and Section 4 (How Services will be delivered) of the Framework Agreement.

## 19. Security

19.1 The Supplier will use software and the most up-to-date antivirus definitions available from an industry accepted antivirus software vendor to minimise the impact of Malicious Software.

19.2 If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, the Supplier will help the Buyer to mitigate any losses and will restore the Services to their desired operating efficiency as soon as possible.

19.3 Any costs arising from the actions of the Buyer or Supplier taken in compliance with the provisions of the above clause, will be dealt with by the Buyer and the Supplier as follows:

* by the Supplier, where the Malicious Software originates from the Supplier software or the Buyer Data while the Buyer Data was under the control of the Supplier, unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier.
* by the Buyer if the Malicious Software originates from the Buyer software or the Buyer Data, while the Buyer Data was under the control of the Buyer.

19.4 The Supplier will immediately notify CCS of any breach of security in relation to CCS’s Confidential Information (and the Buyer in relation to any breach regarding Buyer Confidential Information). The Supplier will recover such CCS and Buyer Confidential Information however it may be recorded.

19.5 Any system development by the Supplier must also comply with the government’s ‘10 Steps to Cyber Security’ guidance, available at: <https://www.gov.uk/government/publications/cyber-risk-management-a-board-level-responsibility/10-steps-summary>

## 20. Guarantee

20.1 Where the Buyer has specified in the Order Form that this Call-Off Contract shall be conditional upon receipt of a Guarantee from the guarantor, the Supplier shall deliver to the Buyer a completed Guarantee in the form attached, on or prior to the Commencement Date; and deliver to the Buyer a certified copy of the passed resolution and/or board minutes of its guarantor approving the execution of the Guarantee.

## 21. Incorporation of terms

21.1 Upon the execution of an Order, the terms and conditions agreed in the Order Form will be incorporated into this Call-Off Contract.

## 22. Managing disputes

22.1 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement as soon as possible.

22.2 Nothing in this procedure will prevents a Party from seeking any interim order restraining the other Party from doing any act or compelling the other Party to do any act.

22.3 If the dispute cannot be resolved, either Party will be entitled to refer it to mediation in accordance with the procedures below, unless:

* the Buyer considers that the dispute is not suitable for resolution by mediation,
* the Supplier does not agree to mediation.

22.4 The procedure for mediation is as follows:

* A neutral adviser or mediator will be chosen by agreement between the Parties. If the Parties cannot agree on a mediator within 10 UK working days after a request by one Party to the other, either Party will as soon as possible, apply to the mediation provider or to the Centre for Effective Dispute Resolution (CEDR) to appoint a mediator. This application to CEDR must take place within 12 UK working days from the date of the proposal to appoint a mediator, or within 3 UK working days of notice from the mediator to either Party that they are unable or unwilling to act.
* The Parties will meet with the mediator within 10 UK working days of the mediator’s appointment to agree a programme for the exchange of all relevant information and the structure for negotiations to be held. The Parties may at any stage seek help from the mediation provider specified in this clause to provide guidance on a suitable procedure.
* Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
* If the Parties reach agreement on the resolution of the dispute, the agreement will be reduced to writing and will be binding on the Parties once it is signed by their duly authorised representatives.
* Failing agreement, either Party may invite the mediator to provide a non-binding but informative opinion in writing. Such an opinion will be provided without prejudice and will not be used in evidence in any proceedings relating to this Call-Off Contract without the prior written consent of both Parties.
* If the Parties fail to reach agreement in the structured negotiations within 60 UK working days of the mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

22.5 Either Party may request by written notice that the dispute is referred to expert determination if the dispute relates to:

* any technical aspect of the delivery of the digital services;
* the underlying technology; or
* otherwise is of a financial or technical nature.

22.6 An expert will be appointed by written agreement between the Parties, but if there is a failure to agree within 10 UK working days, or if the person appointed is unable or unwilling to act, the expert will be appointed on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society).

22.7 The expert will act on the following basis:

* they will act as an expert and not as an arbitrator and will act fairly and impartially;
* the expert's determination will (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
* the expert will decide the procedure to be followed in the determination and will be requested to make their determination within 30 UK working days of their appointment or as soon as reasonably practicable and the Parties will help and provide the documentation that the expert needs for the determination;
* any amount payable by one Party to another as a result of the expert's determination will be due and payable within 20 UK working days of the expert's determination being notified to the Parties
* the process will be conducted in private and will be confidential;
* the expert will determine how and by whom the costs of the determination, including their fees and expenses, are to be paid.

22.8 Without prejudice to any other rights of the Buyer under this Call-Off Contract, the obligations of the Parties under this Call-Off Contract will not be suspended, ceased or delayed by the reference of a dispute submitted to mediation or expert determination and the Supplier and the Supplier Staff will comply fully with the Requirements of this Call-Off Contract at all times.

# 23. Termination

23.1 The Buyer will have the right to terminate this Call-Off Contract at any time by giving the notice to the Supplier specified in Part A, the Order Form. The Supplier’s obligation to provide the Services will end on the date set out in the Buyer’s notice.

23.2 The Parties acknowledge and agree that:

* the Buyer’s right to terminate under this clause is reasonable in view of the subject matter of this Call-Off Contract and the nature of the Service being provided.
* the Call-Off Contract Charges paid during the notice period given by the Buyer in accordance with this clause are a reasonable form of compensation and are deemed to fully cover any avoidable costs or losses incurred by the Supplier which may arise either directly or indirectly as a result of the Buyer exercising the right to terminate under this clause without cause.
* Subject to clause 31 (Liability), if the Buyer terminates this Call-Off Contract without cause, they will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate such Loss. If the Supplier holds insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of such Loss, with supporting evidence of unavoidable Losses incurred by the Supplier as a result of termination.
* Either Party will have the right to terminate this Call-Off Contract where clause 29.2 applies.

23.3 The Buyer will have the right to terminate this Call-Off Contract at any time with immediate effect by written notice to the Supplier if:

* the Supplier commits a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied, or
* the Supplier commits any fraud.

23.4 Either Party may terminate this Call-Off Contract at any time with immediate effect by written notice (of not more than 30 UK working days) if the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due under this Call-Off Contract) and, if such breach is remediable, fails to remedy that breach within a period of 15 UK working days of being notified in writing to do so.

23.5 If an Insolvency Event of either Party occurs, or the other Party ceases or threatens to cease to carry on the whole or any material part of its business, the other Party is entitled to terminate this Call-Off Contract with immediate effect.

23.5 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier shall notify the Buyer in writing of such failure to pay and allow the Buyer five (5) calendar days to settle the undisputed invoice. If the Buyer fails to pay such undisputed sums within the allotted additional 5 calendar days, the Supplier may terminate this Call-Off Contract subject to giving the length of notice specified in the Order Form (Termination)

# 24. Consequences of termination and expiry

24.1 Where the Buyer has the right to terminate this Call-Off Contract it may elect to suspend this Call-Off Contract and its performance.

24.2 If the Buyer contracts with another Supplier for the Deliverables under this Call-Off Contract, the Supplier will comply with clause 28.

24.3 The rights and obligations of the Parties in respect of this Call-Off Contract will automatically terminate upon the expiry or termination of this Call-Off Contract, except those rights and obligations set out in clause 24.7.

24.4 At the end of the Call-Off Contract period (howsoever arising), the Supplier must:

* promptly return to the Buyer:
  + all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under this Call-Off Contract;
  + any materials created by the Supplier under this Call-Off Contract where the IPRs are owned by the Buyer;
  + cease to use the Buyer Data and, at the direction of the Buyer, provide the Buyer and the replacement Supplier with a complete and uncorrupted version of the Buyer Data in electronic form in the formats and on media agreed with the Buyer and the replacement Supplier;
* destroy all copies of the Buyer Data when they receive the Buyer’s written instructions to do so or 12 months after the date of expiry or termination, and provide written confirmation to the Buyer that the data has been securely destroyed, except where the retention of Buyer Data is required by Law;
* work with the Buyer on any work in progress and ensure an orderly transition of the Services to the replacement supplier;
* return any sums prepaid for Services which have not been delivered to the Buyer by the date of expiry or termination;
* provide all information requested by the Buyer on the provision of the Services so that:
  + the Buyer is able to understand how the Services have been provided; and
  + the Buyer and the replacement supplier can conduct due diligence.

24.5 Each Party will return all of the other Party’s Confidential Information. Each Party will confirm that it does not retain the other Party’s Confidential Information except where the information must be retained by the Party as a legal requirement or where this Call-Off Contract states otherwise.

24.6 All licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Services will be terminated at the end of the Call-Off Contract period (howsoever arising) without the need for the Buyer to serve notice except where this Call-Off Contract states otherwise.

24.7 Termination or expiry of this Call-Off Contract will not affect:

* any rights, remedies or obligations accrued under this Call-Off Contract prior to termination or expiration;
* the right of either Party to recover any amount outstanding at the time of such termination or expiry;
* the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses:
  + 8 - Payment Terms and VAT
  + 9 - Recovery of Sums Due and Right of Set-Off
  + 10 - Insurance
  + 11 - Confidentiality
  + 12 - Conflict of Interest
  + 13 - Intellectual Property Rights
  + 15 - Buyer Data
  + 24 - Consequences of Expiry or Termination
  + 31 - Liability
  + 32 - Waiver and cumulative remedies
* any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry will survive the termination or expiry of this Call-Off Contract.

# 25. Supplier’s status

25.1 The Supplier is an independent Contractor and no contract of employment or partnership is created between the Supplier and the Buyer. Neither Party is authorised to act in the name of, or on behalf of, the other Party.

# 26. Notices

26.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being in writing.

26.2 The following table sets out the method by which notices may be served under this Call-Off Contract and the respective deemed time and proof of Service:

|  |  |  |
| --- | --- | --- |
| **Delivery type** | **Deemed delivery time** | **Proof of Service** |
| Email | 9am on the first Working Day after sending | Dispatched in a pdf form to the correct email address without any error message |

26.3 The address and email address of each Party will be the address and email address in the Order Form.

# 27. Exit plan

27.1 The Supplier has provided details of their exit plan within the service description specified in the Order Form and the Buyer and Supplier will follow these arrangements as per Supplier Terms.

## 28. Handover to replacement supplier

28.1 Within 10 UK Working Days of the expiry or termination of this Call-Off Contract , the Supplier will make available to the Buyer:

* any data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier’s possession, power or control.
* any sums prepaid to the Supplier in respect of Ordered Deliverables not provided by the date of expiry or termination of this Call-Off Contract.

28.2 When requested, the Supplier will (at its own expense where the Call-Off Contract has been terminated before end of term due to Supplier cause) help the Buyer to migrate the Services to a replacement Supplier in line with the exit plan (clause 27) to ensure continuity of the Services.

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## 29. Force Majeure

29.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Call-Off Contract (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event. Each Party will use all reasonable endeavours to continue to perform its obligations under this Call-Off Contract for the length of a Force Majeure event.

29.2 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 15 consecutive calendar days, the other Party may terminate this Call-Off Contract with immediate effect by notice in writing.

## 30. Entire agreement

30.1 This Call-Off Contract constitutes the entire agreement between the Parties relating to the matters dealt within it. It supersedes any previous agreement between the Parties relating to such matters.

30.2 Each Party agrees that in entering into this Call-Off Contract it does not rely on, and will have no remedy relating to, any agreement or representation (whether negligently or innocently made) other than as expressly described in this Call-Off Contract.

30.3 Nothing in this clause will exclude any liability for (or remedy relating to) fraudulent misrepresentation or fraud.

30.4 Each of the Parties agrees that in entering into this Call-Off Contract it does not rely on, and will have no remedy relating to, any agreement, statement, representation, warranty, understanding or undertaking (whether negligently or innocently made) other than as described in this Call-Off Contract.

# 31. Liability

31.1 Neither Party excludes or limits its liability for:

* death or personal injury;
* bribery or fraud by it or its employees;
* breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982; or
* any liability to the extent it cannot be excluded or limited by Law.

31.2 Subject to Clauses 31.1 and 31.10 and any lower limits specified in the Order Form, and notwithstanding Clause 31.4, each Party's total aggregate liability relating to all Losses due to a Default in connection with this Call-Off Contract:

* resulting in direct loss or damage to physical Property (including any technical infrastructure, assets or Equipment) of the other Party, will be limited to the sum of £1,000,000 in each Call-Off Contract year in which the Default occurs
* subject to the first bullet point in this clause 31.2 which occur in the first 6 months,will be limited to the greater of the sum of £500,000 or a sum equal to 200% of the estimated Call-Off Contract Charges for the first six months
* subject to the first bullet point in this clause 31.2 which occur during the remainder of the Call-Off Contract period,will be limited to the greater of the sum of £500,000 or an amount equal to 125% of the Call-Off Contract Charges paid, due or which would have been payable under this Call-Off Contract in the 6 months immediately preceding the event giving rise to the liability
* subject to the first bullet point in this clause 31.2 which occur after the end of the Call-Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 125% of the Call-Off Contract Charges paid, due or which would have been payable under this Call-Off Contract in the 6 months immediately before the end of the Call-Off Contract period.

31.3 Subject to clause 31.1, 31.4, in no event will either Party be liable to the other for any:

* loss of profits;
* loss of business;
* loss of revenue;
* loss of or damage to goodwill;
* loss of savings (whether anticipated or otherwise); or
* any indirect, special or consequential loss or damage.

31.4 Subject to Clause 31.2 the Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Buyer:

* the additional operational or administrative costs and expenses arising from any Supplier Default; and
* any wasted expenditure or charges rendered unnecessary and/or incurred by the Buyer arising from the Supplier's Default; and  
  any losses, costs, damages, expenses or other liabilities suffered or incurred by the Buyer which arise out of or in connection with the loss of, corruption or damage to or failure to deliver Buyer Data by the Supplier; and
* any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Law.

31.5 The annual aggregate liability for all defaults resulting in direct loss, destruction, corruption, degradation or damage to the Buyer Data or the Buyer Personal Data or any copy of such Buyer Data, caused by the Supplier's default under or in connection with a Call-Off Contract shall be subject to the financial limits set out in the Order Form.

31.6 No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, the Buyer to any document or information provided by the Supplier in its provision of the Services, and no failure of the Buyer to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the Supplier to carry out all the obligations of a professional Supplier employed in a client and Buyer relationship.

31.7 Unless otherwise expressly provided, the obligations of the Buyer under this Call-Off Contract are obligations of the Buyer in its capacity as a Contracting counterparty and nothing in this Call-Off Contract will be an obligation on, or in any other way constrain the Buyer in any other capacity, nor will the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under this Call-Off Contract on the part of the Buyer to the Supplier.

31.8 Any liabilities which are unlimited will not be taken into account for the purposes of establishing whether any limits relating to direct loss or damage to physical Property within this clause have been reached.

31.9 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Buyer or by breach by the Buyer of its Call-Off Contract obligations.

31.10 The Supplier's liability to pay any Management Charges which are payable to the Authority shall not be limited.

# 32. Waiver and cumulative remedies

32.1 The rights and remedies provided by this agreement may be waived only in writing by the Buyer or the Supplier representatives in a way that expressly states that a waiver is intended, and such waiver will only be operative regarding the specific circumstances referred to.

32.2 Unless a right or remedy of the Buyer is expressed to be exclusive, the exercise of it by the Buyer is without prejudice to the Buyer’s other rights and remedies. Any failure to exercise, or any delay in exercising, a right or remedy by either Party will not constitute a waiver of that right or remedy, or of any other rights or remedies.

# 33. Fraud

33.1 The Supplier will notify the Buyer if it suspects that any fraud has occurred, or is likely to occur. The exception to this is if while complying with this, it would cause the Supplier or its employees to commit an offence.

33.2 If the Supplier commits any fraud relating to a Framework Agreement, this Call-Off Contract or any other Contract with the government:

* the Buyer may terminate the Call-Off Contract
* CCS may terminate the Framework Agreement
* CCS and/or the Buyer may recover in full from the Supplier whether under Clause 33.3 below or by any other remedy available in law.

33.3 The Supplier will, on demand, compensate CCS and/or the Buyer, in full, for any loss sustained by CCS and/or the Buyer at any time (whether such loss is incurred before or after the making of a demand following the indemnity hereunder) in consequence of any breach of this clause.

# 34. Prevention of bribery and corruption

34.1 The Supplier will not commit any Prohibited Act.

34.2 The Buyer and CCS will be entitled to recover in full from the Supplier and the Supplier will, on demand, compensate CCS and/or the Buyer in full from and against:

* the amount of value of any such gift, consideration or commission; and
* any other loss sustained by CCS and/or the Buyer in consequence of any breach of this clause.

# 35. Legislative change

35.1 The Supplier will neither be relieved of its obligations under this Call-Off Contract nor be entitled to increase the Call-Off Contract prices as the result of a general change in Law or a Specific Change in Law without prior written approval from the Buyer.

# 36. Publicity, branding, media and official enquiries

36.1 The Supplier will take all reasonable steps to not do anything which may damage the public reputation of the Buyer. The Buyer may terminate this Call-Off Contract for Material Breach where the Supplier, by any act or omission, causes material adverse publicity relating to or affecting the Buyer or the Call-Off Contract. This is true whether or not the act or omission in question was done in connection with the performance by the Supplier of its obligations hereunder.

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# 37. Non Discrimination

37.1 The Supplier will notify CCS and relevant Buyers immediately of any legal proceedings issued against it by any Supplier Staff on the grounds of discrimination.

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# 38. Premises

38.1 Where either Party uses the other Party’s premises, such Party is liable for all Loss or damage it causes to the premises. Such Party is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

38.2 The Supplier will use the Buyer’s premises solely for the performance of its obligations under this Call-Off Contract.

38.3 The Supplier will vacate the Buyer’s premises upon termination or expiry of the Call-Off Contract.

38.4 This clause does not create an tenancy or exclusive right of occupation.

38.5 While on the Buyer’s premises, the Supplier will:

* ensure the security of the premises;
* comply with Buyer requirements for the conduct of personnel;
* comply with any health and safety measures implemented by the Buyer;
* comply with any instructions from the Buyer on any necessary associated safety measures ; and
* notify the Buyer immediately in the event of any incident occurring on the premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

38.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

38.7 All Equipment brought onto the Buyer’s premises will be at the Supplier's risk. Upon termination or expiry of the Call-Off Contract, the Supplier will remove such Equipment.

# 39. Equipment

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39.1 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any Loss of, or damage to, any Equipment.

39.2 Upon termination or expiry of the Call-Off Contract, the Supplier will remove the Equipment, and any other materials, leaving the premises in a safe and clean condition.

**40. The Contracts (Rights of Third Parties) Act 1999**

40.1 A person who is not party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Call-Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

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# 41. Law and jurisdiction

41.1 This Call-Off Contract will be governed by the Laws of England and Wales. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

# 42. Environmental requirements

42.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.

42.2 The Supplier must support Buyers in their efforts to work in an environmentally-friendly way, eg by helping them engage in practices like recycling or lowering their carbon footprint.

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# 43. Defined Terms

In this Call-Off Contract, the following expressions and defined terms have the following interpreted meaning:

|  |  |
| --- | --- |
| **‘Additional Services’** | The services in addition to the G-Cloud Services which are within the scope of the Framework Agreement which the Buyer may request from time to time. |
| **'Application'** | The response submitted by the Supplier to the Invitation to Tender (ITT). |
| **‘Assurance’** | The verification process undertaken by CCS as described in this Framework Agreement. |
| **‘Background IPRs’** | For each Party:   * IPRs owned by that Party before the date of this Call-Out Contract, including IPRs contained in any of the Party's know-how, documentation, processes and procedures, * IPRs created by the Party independently of this Call-Out Contract, and/or * For the Buyer, Crown Copyright which is not available to the Supplier otherwise than under this Call-Out Contract,   but excluding IPRs owned by that Party subsisting in Buyer software or Supplier software. |
| **‘Buyer’** | A UK public sector body, or Contracting Body, as described in the OJEU Contract Notice, that can execute a competition and a Call-Off Contract within this Framework Agreement and is identified in the Call-Off Order Form. |
| **'Buyer’s Confidential Information'** | All Buyer Data and any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Suppliers of the Buyer, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above  Any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential'). |
| **'Buyer Data'** | Data that is owned or managed by the Buyers. |
| **'Buyer Software'** | Software owned by or licensed to the Buyer (other than under or pursuant to this Agreement), which is or will be used by the Supplier for the purposes of providing the Services. |
| **'Call-Off Contract'** | The legally binding agreement (entered into following the provisions of this Framework Agreement) for the provision of Services made between a Buyer and the Supplier.  This may include the Order Form detailing service requirements, term of Call-Off Order, start date and pricing. |
| **'Charges'** | The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract. |
| **‘PSN Code of Practice’** | Those obligations and requirements for PSN Service  Providers wanting to participate in the PSN together  with all documents annexed to it and referenced within  it, as set out in the code template. |
| **‘Collaboration Agreement’** | An agreement between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer’s Services and to ensure that the Buyer receives an efficient end-to-end G-Cloud Services. |
| **‘Commencement Date’** | For the purposes of the Framework Agreement, commencement date shall be as outlined in Section 1 - The Appointment within this Framework Agreement.  For the purposes of the Call-Off Contract, commencement date shall be as set in the Order Form. |
| **'Commercially Sensitive Information'** | Information, which CCS has been notified about, (before the start date of the Framework Agreement) or the Buyer (before the Call-Off Contract start date) with full details of why the Information is deemed to be commercially sensitive. |
| **‘Comparable Supply’** | The supply of services to another Buyer of the Supplier that are the same or similar to any of the Services |
| **‘Confidential Information’** | CCS's Confidential Information or the Supplier's Confidential Information, which may include (but is not limited to):   * any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above * any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential' |
| **'Contracting Bodies'** | The Buyer and any other person as listed in the OJEU Notice or Regulation 2 of the Public Contracts Regulations 2015, as amended from time to time, including CCS |
| **'Control'** | Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly |
| **'Crown'** | The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf |
| **‘Data Protection Legislation or DPA’** | The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable legally binding guidance and codes of practice issued by the Information Commissioner. |
| **‘Data Subject’** | Shall have the same meaning as set out in the Data Protection Act 1998, as amended from time to time. |
| **'Default'** | * any breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) * any other default, act, omission, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff in connection with or in relation to this Framework Agreement or this Call-Off Contract   Unless otherwise specified in this Call-Off Contract the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer. |
| **‘Deliverable’** | Those G-Cloud Services which the Buyer contracts the Supplier to provide under the Call Off Contract. |
| **'Digital Marketplace'** | The government marketplace where Services will be made available to Buyers to enable them to be bought [(https://www.digitalmarketplace.service.gov.uk/](https://www.digitalmarketplace.service.gov.uk/)) |
| **'Equipment'** | The Supplier’s hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under the Call-Off Contract. |
| **‘Direct Award Criteria’** | The award criteria to be applied for the award of Call-Off Contracts for G-Cloud Services set out in Section 3 ‘Buying Process’. |
| **‘Direct Ordering Procedure’** | The ordering procedure set out in Framework Agreement. |
| **‘Effective Date’** | The date on which the Call-Off Contract is signed and as set out in the Order Form. |
| **'FoIA'** | The Freedom of Information Act 2000 and any subordinate legislation made under the Act occasionally together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation. |
| **'Framework Agreement'** | This contractually-binding document. |
| **‘Framework Suppliers’** | The suppliers (including the Supplier) appointed under this G-Cloud 8 Framework Agreement. |
| **‘Fraud’** | Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown. |
| **‘G-Cloud Services’** | The cloud services described in Framework Section 2 (G-Cloud Services) as defined by the Service Definition, the Supplier Terms and any related tender documentation, which the Supplier shall make available to the Authority and Other Contracting Bodies and those services which are deliverable by the Supplier under the Collaboration Agreement. |
| **'Good Industry Practice'** | Standards and procedures conforming to the Law and the application of skill, care and foresight which would be expected from a person or body who has previously been engaged in a similar type of undertaking under similar circumstances. The person or body must adhere to the technology code of practice (<https://www.gov.uk/service-manual/technology/code-of-practice.html>) and the government service design manual (<https://www.gov.uk/service-manual>). |
| **'Group'** | A company plus any subsidiary or Holding Company.  'Holding company' and 'Subsidiary' are defined in section 1159 of the Companies Act 2006. |
| **‘Group of Economic Operator’** | A partnership or consortium not (yet) operating through a separate legal entity. |
| **‘Guarantee’** | The deed of guarantee described in the Order Form (Parent Company Guarantee). |
| **‘Guidance’** | Any current UK Government Guidance on the Public Contracts Regulations. In the event of a conflict between any current UK Government Guidance and the Crown Commercial Service Guidance, current UK Government Guidance shall take precedence. |
| **'Holding Company'** | As described in section 1159 and Schedule 6 of the Companies Act 2006. |
| **'Information'** | As described under section 84 of the Freedom of Information Act 2000, as amended from time to time. |
| **'Insolvency Event'** | Can be:   * a voluntary arrangement * a winding-up petition * the appointment of a receiver or administrator * an unresolved statutory demand * a Schedule A1 moratorium. |
| **'Intellectual Property Rights' or 'IPR'** | means: a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), know-how, trade secrets and moral rights and other similar rights or obligations whether registerable or not;  b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and  c) all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off. |
| **‘Invitation to Tender or ITT’** | The invitation to tender for this Framework. |
| **'Law'** | Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of Law, or directives or requirements of any Regulatory Body. |
| **'Loss'** | All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and 'Losses' will be interpreted accordingly. |
| **‘Lot’** | A subdivision of the Services which are the subject of this procurement as described in the OJEU Contract Notice. |
| **Management Charge''** | The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.5% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or termination of any Call-Off Contract. |
| **'Management Information'** | The management information (MI) specified in section 6 (What you report to CCS) of this Framework Agreement. |
| **‘Management Information (MI) Failure’** | If any of the below instances occur, CCS may treat this as an 'MI Failure':   * there are omissions or errors in the Supplier’s submission * the Supplier uses the wrong template * the Supplier’s report is late * the Supplier fails to submit a report |
| **'Material Breach (Framework Agreement)'** | A breach by the Supplier of the following Clauses in this Framework Agreement:   * Subcontracting * Non-Discrimination * Conflicts of Interest and Ethical Walls * Warranties and Representations * Provision of Management Information * Management Charge * Prevention of Bribery and Corruption * Safeguarding against Fraud * Data Protection and Disclosure * Intellectual Property Rights and Indemnity * Confidentiality * Official Secrets Act * Audit |
| **'Material Breach (Call-Off Contract)'** | A single serious breach of or persistent failure to perform as required in the Call-Off Contract. |
| **'OJEU Contract Notice'** | The advertisement for this procurement issued in the Official Journal of the European Union. |
| **'Order Form'** | An order set out in the Call-Off Contract for G-Cloud Services placed by a Buyer with the Supplier. |
| **'Other Contracting Bodies'** | All Contracting Bodies, or Buyers, except CCS. |
| **‘Parent Company’** | Any company which is the ultimate Holding Company of the Supplier. |
| **'Party'** | * for the purposes of the Framework Agreement, CCS or the Supplier * for the purposes of the Call-Off Contract, the Supplier or the Buyer and 'Parties' will be interpreted accordingly. |
| **'Personal Data'** | As described in the Data Protection Act 1998 (<http://www.legislation.gov.uk/ukpga/1998/29/contents>) |
| **'Prohibited Act'** | To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:   * induce that person to perform improperly a relevant function or activity * reward that person for improper performance of a relevant function or activity * commit any offence:   + under the Bribery Act 2010   + under legislation creating offences concerning Fraud   + at common Law concerning Fraud   + committing or attempting or conspiring to commit Fraud |
| **‘PSN’** | The Public Services Network (PSN) is the Government’s high-performance network which helps public sector organisations work together, reduce duplication and share resources. |
| **'Regulations'** | The Public Contracts Regulations 2015 (at <http://www.legislation.gov.uk/uksi/2015/102/contents/made>) and the Public Contracts (Scotland) Regulations 2012 (at <http://www.legislation.gov.uk/ssi/2012/88/made>). |
| **'Regulatory Bodies'** | Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Framework Agreement. |
| **'Reporting Date'** | The seventh day of each month following the month to which the relevant MI relates. A different date can be chosen if agreed between the Parties. |
| **'Request for Information'** | A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations. |
| **'Self Audit Certificate'** | The certificate in the form as set out in Framework Schedule 1 - Self Audit Certificate, to be provided to CCS by the Supplier. |
| **‘Services’** | Means G-Cloud Services and any/or Additional Services. |
| **‘Service Definition’** | The definition of the Supplier's G-Cloud Services  provided as part of their Tender that includes, but is not limited to, those items listed in Section 2 (G-Cloud Services) of this Framework Agreement. |
| **‘Service Description’** | The description of the Supplier service offering as published on the Digital Marketplace. |
| **‘Standstill Period’** | The term Standstill Period is set out in Regulation 87 (2). In summary, it is the 10 calendar days after CCS (in this instance by electronic means) sends its decision to conclude the Framework Agreement tendered via the Official Journal of the European Union, during which CCS must not conclude the Framework Agreement with the successful Supplier(s). Unsuccessful Applicants can raise any questions with CCS that relate to the decision to award before the Framework Agreement is concluded. CCS cannot advise unsuccessful Applicants on the steps they should take. Applicants should always seek independent legal advice, where appropriate. |
| **'Specific Change in Law'** | A change in the Law that relates specifically to the business of CCS and which would not affect a Comparable Supply. |
| **'Subcontractor'** | Each of the Supplier’s Subcontractors or any person engaged by the Supplier in connection with the provision of the digital services as may be permitted by this Framework Agreement. |
| **‘Supplier’** | A Supplier of G-Cloud Services who can bid for Call-Off Contracts as outlined in the Contract Notice within the Official Journal of the European Union (OJEU Contract Notice). |
| **‘Supplier Background IPRs’** | Background IPRs of the Supplier. |
| **‘Supplier Insolvency Event’** | Means the Supplier is unable to pay debts in Section 268 of Insolvency Act 1986. |
| **'Supplier Staff'** | All persons employed by the Supplier including the Supplier's agents and consultants used in the performance of its obligations under this Framework Agreement or any Call-Off Contracts. |
| **‘Supplier Terms’** | means the terms and conditions pertaining to the G-Cloud Services and as set out in the Terms and Conditions document supplied as part of the Supplier’s Tender. |
| **‘Tender’** | The response submitted by the Supplier to the Invitation to Tender. |
| **'Working Day'** | Any day other than a Saturday, Sunday or public holiday in England and Wales , from 9am to 5pm unless otherwise agreed with the Buyer and the Supplier in the Call-Off Contract. |

**Annex A – Request For Quote Template**

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| **Service Provider Request for Quote** | | | |
| *This form is structured in three parts: Part 1 is the Request for Quote, Part 2 is the Service Provider’s Response, Part 3 is the Customers’ Acceptance, together with the guidance that should be followed to raise a Purchase Order Requisition.* | | | |
| **To be completed by IT Group Finance and Contract Team (FaCT)** | | | |
| **Date Request sent to Service Provider** |  | **RfQ Reference** |  |

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| **Part 1. Request for Quote. To be completed by the work requester** |

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| --- | --- |
| All requests must be completed in accordance with the IT Group commissioning process/ governance arrangements. By submitting this form you are confirming that all the necessary business case approvals are in place to allow the services to be sourced..  **NOTE**: all sections of the request for quote Part 1 must be completed in full. Any partially completed forms will be rejected. | |
| **Request Title / Project Name** |  |

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| --- | --- |
| **Work Requester**  **Directorate/Division** |  |
| **Principal Contact and Role** | **Name:**  **Role:**  **Address:**  **Phone:** |

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| **IR35 Assessment Outcome** | |
| Note: it is the responsibility of the work package requester to complete the [HMRC IR35 assessment](https://www.tax.service.gov.uk/check-employment-status-for-tax/setup) and attach the resulting pdf to this Request for Quote. Failure to do so will result in this request for work quote being rejected. | |
| **Outcome of IR35 assessment for this Request for Quote** | The intermediaries legislation does not apply to this engagement  Comments:   |  | | --- | |  |   [NOTE: if the outcome of the IR35 assessment is either “*the intermediaries legislation does apply to this engagement” or “unable to determine the tax status of this engagement”* please **stop** and seek advice from the Finance and Contract Team] |
| **Working Arrangements** | |
| *Please describe how you intend to work with the service provider to ensure that it is compliant with IR35 guidance (link to central guidance added when available).* Here is a helpful reminder on the behaviours of the working arrangement:   * Control – the department is responsible for stating what is to be delivered. The service provider is responsible for using its own intitiative in determining how the services are to be delivered and the provision of resources to support the services [which shall include one or more specialists]. * Risk (financial) – the financial risk of delivering the service/deliverables/outcome must lie with the service provider. Outputs and deliverables will be linked to payments. If the work does not meet the acceptance criteria it is the responsibility of the service provider to correct it at their own expense * Integration (part and parcel of the organisation) - The service provider should not be treated as one of the team or be indispensable. They are expected to provide the services on such hours/days as required to meet any deadlines, as agreed between the service provider and the department. * Substitution – the department are willing to accept substitute personnel with the relevant skills and expertise from the service provider (eg. to cover holidays, illness etc). * Provision of own equipment - The service provider must provide their own equipment where security requirements permit. Please describe any exceptions, and the reasons for these exceptions, to this (eg. DfE accounts, MS Azure accounts)   ***This request for work is for a service***  ***If it looks like a people role then it probably is***   |  | | --- | |  | | |

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| **Funding** | |
| **Funding Team/Division** |  |
| **Cost Centre** |  |

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| --- | --- |
| **Term** | |
| **Target Commencement Date** |  |
| **Target Delivery Date** |  |

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| **Work Package Objectives**  ***Provide a summary of the Department's requirements, including the overall objectives and activities for the service to be provided and known skills required. Please indicate if there are any requirements to visit departmental offices.*** |
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| **Work Package Deliverables**  ***List any specific deliverables that the Service Provider must produce. All deliverables must be defined against measurable acceptance criteria.*** |
| |  |  |  |  | | --- | --- | --- | --- | | Ref | Deliverable Date | Deliverable Description | Acceptance Criteria (quality expected) | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  | |

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| **Risks** |
| *Please identify all known risks that might impact the service provider’s ability to deliver the service requirement which meets the acceptance criteria.* |
|  |
| **Evaluation Criteria** |
| *Where this RfQ is provided to more than one company, please specify the criteria and weightings that will be used to evaluate the quotes. This could include skills, experience, knowledge, substitution capacity, location, price, ability to deliver.* |

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| **Senior Responsible Officer / Deputy Director Sign Off** |
| ***I confirm that I have engaged fully in*** [***ITG’s governance process***](http://portal/handbook/it/governance/Pages/default.aspx) ***and I have appropriate technical, project and funding approval for this proposal’. I accept the risk and liability in the event of an investigation by HMRC in respect of the IR35 status of this engagement***   |  |  | | --- | --- | | Name |  | | Position |  | | Date Finance Business Partner approval received |  | | IT governance reference number |  | | Date |  | | SRO / DD Sign Off |  | |

The RfQ must now be sent to the email mailbox [ContractManagement.ITGROUP@education.gov.uk](mailto:ContractManagement.ITGROUP@education.gov.uk).

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| **Part 2. Response to RfQ. To be completed by the Service Provider** |

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| **Service Provider Response**  ***Provide details on the proposal which sets out an overview of the proposed solution to the Department’s Requirements.*** |
|  |
| **Service Provider Obligations on the Department** *Provide details of any obligations on the Department that may be necessary for the activities contained within this Work Package.* |
|  |

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| --- |
| **Service Provider Costs** *Provide the charges for this Work Package. The charges shall be constructed using the rates agreed as part of the call-off contract.* |
| |  |  |  | | --- | --- | --- | | Deliverables | Units  (No. of days x rate) | Price (excluding VAT) | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  | Discounts to be applied |  | |  | Total |  | |

|  |
| --- |
| **Service Provider Payment Terms and Milestones**  *Provide details on the milestones and payment terms for each milestone.* |
| | **Deliverable** | **Milestone** | **Duration** | **Milestone Date** | **Payment Terms** | | --- | --- | --- | --- | --- | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |

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| --- | --- |
| **Term** | |
| Commencement Date |  |
| Delivery Date |  |

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| --- |
| **Service Provider Sign Off** |
| *Additional comments*   |  |  | | --- | --- | | Response Prepared by |  | | Position |  | | Signature |  | | Date Submitted to the Department |  | |

The RfQ must now be sent to the email mailbox [ContractManagement.ITGROUP@education.gov.uk](mailto:ContractManagement.ITGROUP@education.gov.uk)

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| **Part 3. Evaluation, Customer Acceptance and Authority for the Work to Commence** |

The department will evaluate the quotes against the work package requirement using the evaluation criteria set out in part 1.

For the successful service provider, all relevant information from this form must now be transferred onto the appropriate Request for Goods and Service template and passed to the nominated Requisitioner for loading onto RM so that a Purchase Order can be produced. The Purchase Order is the agreement by which the customer instructs the service provider to provide services as described in the service provider response to the work package / request for quote. The service provider will commence the work within the agreed timeframe upon receipt of this purchase order. Any Purchase Order queries should be directed to the Work Requester.

For the unsuccessful service providers, the department will notify them in a timely manner.

**Annex B- Additional Clauses**

In addition to the GCloud viii framework and Call Off Terms and Conditions the following clauses shall apply, as referenced in Part A – Order Form under “Supplemental requirements in addition to the call-off terms. They will be apply according to the order of precedence detailed at clause 2.2. of the Call off Terms and Conditions at Part C.

*(Please note that the numbering system reflects the number used on the full DfE library of clauses)*

**1. Intellectual Property Rights and Copyright**

"Intellectual Property means patents, trade marks, service marks, design rights

Rights” (whether registerable or otherwise), applications for any of the foregoing, know-how, rights protecting databases, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).

"the Act" means the Copyright Designs and Patents Act 1988;

"Copyright" means any and all copyright, design right (as defined by the Act) and all other rights of a like nature which may, during the course of this Contract, come into existence in or in relation to any Work (or any part thereof);

"Crown and/or Her both mean Queen Elizabeth II and any successor to

Majesty" Her Majesty;

"HMSO" means Her Majesty's Stationery Office;

"Her Majesty's means the duly elected Government for the time being

Government" during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government;

"Work" means any and all Works including but not limited to literary, dramatic, musical or artistic works, sound recordings, films, broadcasts or cable programmes, typographical arrangements and designs (as the same are defined in the Act) which are created from time to time during the course of this Contract by the Supplier or by or together with others at the Supplier’s request or on its behalf and where such works directly relate to or are created in respect of the performance of this Contract or any part of it.

1.1 Intellectual Property Rights and Copyright

1.1.1 The Supplier agrees that the Crown shall be legally and beneficially entitled to any and all Intellectual Property Rights and Copyright and the Supplier hereby assigns to the Crown any and all residual title which it may have in any and all such Intellectual Property Rights and/or Copyright.

1.1.2 The Supplier undertakes that it shall, from time to time, take all such steps and execute all such documents as the Crown or HMSO on its behalf may reasonably require to fully vest in the Crown any and all residual title, whether legal or beneficial, to the Intellectual Property Rights and/or Copyright.

1.2 Copyright Warranties

1.2.1 The Supplier now warrants to the Crown, HMSO and the Department (and to any assignees and licensees of each) that all Works will not infringe in whole or in part any copyright or like right or any other intellectual property right of any other person (wheresoever) and agrees to indemnify and hold harmless Her Majesty and/or Her Majesty's Government against any and all claims, demands, proceedings, expenses and losses, including any of a consequential nature, arising directly or indirectly out of any act of the foregoing in relation to any Work, where such act is or is alleged to be an infringement of a third party's copyright or like right or other intellectual property right (wheresoever).

1.2.2 The warranty and indemnity contained in Clause 1.2.1 above shall survive the termination of this Contract and shall exist for the life of the Copyright.

**2. Ownership of Drawings Specifications and Other Data**

Any drawings, specifications or other data, as set out in Schedule 1 Deliverables, completed or provided in connection with this Contract shall become or, as the case may be, remain the property of the Buyer and be delivered up to the Buyer at the times shown in Schedule 1 or on completion or termination of the Contract.

1. **Departmental Security Standards for Business Services and ICT Contracts**

|  |  |
| --- | --- |
| “BPSS”  “Baseline Personnel Security Standard” | a level of security clearance described as pre-employment checks in the National Vetting Policy. |
| “CESG” | is the UK government’s National Technical Authority for Information Assurance. The website is <http://www.cesg.gov.uk/Pages/homepage.aspx> |
| “CESG IAP”  “CESG Information Assurance Policy Portfolio” | means the CESG Information Assurance policy Portfolio containing HMG policy and guidance on the application of ‘security assurance’ for HMG systems. |
| “CTAS”  ”CESG Tailored Assurance” | is an ‘information assurance scheme’ which provides assurance for a wide range of HMG, MOD, Critical National Infrastructure (CNI) and public sector customers procuring IT systems, products and services, ranging from simple software components to national infrastructure networks. |
| “CPA”  “CESG Product Assurance” | is an ‘information assurance scheme’ which evaluates commercial off the shelf (COTS) products and their developers against published security and development standards. These CPA certified products can be used by government, the wider public sector and industry. |
| “CCSC”  “CESG Certified Cyber Security Consultancy” | is CESG's approach to assessing the services provided by consultancies and confirming that they meet CESG's standards. This approach builds on the strength of CLAS and certifies the competence of suppliers to deliver a wide and complex range of cyber security consultancy services to both the public and private sectors. |
| “CCP”  “CESG Certified Professional” | is a CESG scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession and are building a community of recognised professionals in both the UK public and private sectors. |
| “CC”  “Common Criteria” | the Common Criteria scheme provides assurance that a developer’s claims about the security features of their product are valid and have been independently tested against recognised criteria. |
| “Cyber Essentials”  “Cyber Essentials Plus” | Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme. |
| “Data”  “Data Controller”  “Data Processor”  “Personal Data”  “Sensitive Personal Data”  “Data Subject”, “Process” and “Processing” | shall have the meanings given to those terms by the Data Protection Act 1998 |
| "Department’s Data"  “Department’s Information” | is any data or information owned or retained in order to meet departmental business objectives and tasks, including:  (a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:  (i) supplied to the Contractor by or on behalf of the Department; or  (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or  (b) any Personal Data for which the Department is the Data Controller; |
| “DfE”  “Department” | means the Department for Education |
| “Departmental Security Standards” | means the Department’s security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver. |
| “Digital Marketplace / GCloud” | the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects. Cloud services (e.g. web hosting or IT health checks) are on the G-Cloud framework. |
| “FIPS 140-2” | this is the Federal Information Processing Standard (FIPS) Publication 140-2, (FIPS PUB 140-2), entitled ‘Security Requirements for Cryptographic Modules’. This document is the de facto security standard used for the accreditation of cryptographic modules. |
| “Good Industry Practice”  “Industry Good Practice” | means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “Good Industry Standard”  “Industry Good Standard” | means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “GSC”  “GSCP” | means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: https://www.gov.uk/government/publications/government-security-classifications |
| “HMG” | means Her Majesty’s Government |
| “SPF”  “HMG Security Policy Framework” | This is the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government’s Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely. |
| “ICT” | means Information and communications technology (ICT) is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution |
| IS5 | this is HMG Information Assurance Standard No. 5 - Secure Sanitisation issued by CESG |
| “ISO/IEC 27001” “ISO 27001” | is the International Standard for Information Security Management Systems Requirements |
| “ISO/IEC 27002” “ISO 27002” | is the International Standard describing the Code of Practice for Information Security Controls. |
| “ISO 22301” | is the International Standard describing for Business Continuity |
| “IT Security Health Check”  “Penetration Testing” | means an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that IT system. |
| “Need-to-Know” | the Need-to-Know principle is employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties. |
| “OFFICIAL”  “OFFICIAL-SENSITIVE” | the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP) which details the level of protection to be afforded to information by HMG, for all routine public sector business, operations and services.  the ‘OFFICIAL–SENSITIVE’ caveat is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the Government Security Classification Policy. |
| “Security and Information Risk Advisor”  “CCP SIRA”  “SIRA” | the Security and Information Risk Advisor (SIRA) is a role defined under the CESG CESG Certified Professional Scheme |

12.1 The Supplier shall comply with Departmental Security Standards for Contractors which include but are not constrained to the following clauses.

* 1. Where the Supplier will provide ICT products or Services or otherwise handle information at OFFICIAL on behalf of the Buyer, the requirements under Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - [Action Note 09/14](https://www.gov.uk/government/publications/procurement-policy-note-0914-cyber-essentials-scheme-certification) 25 September 2014, or any subsequent updated document, are mandated; that “contractors supplying products or services to HMG shall have achieved, and retain certification at the appropriate level, under the HMG Cyber Essentials Scheme”. The certification scope must be relevant to the services supplied to, or on behalf of, the Buyer.
* *(Guidance: The Department’s expectation is that the certification scope will be relevant to the services supplied to, or on behalf of, the Department. However, where a contractor or (sub) contractor is able to evidence a valid exception or certification to an equivalent recognised scheme or standard, such as ISO 27001, then certification under the Cyber Essentials scheme could be waived and this clause may be removed. Changes to the Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - Action Note 09/14 25 September 2014 will be tracked by the DSU)*
* *(Guidance: The terms OFFICIAL and OFFICIAL-SENSITIVE are taken from the Government Security Classification Policy (GSCP). The Department’s expectations are that all contractors shall handle the Department’s information in a manner compliant with the GSCP – see 12.4 below. Details of the GSCP can be found on the GOV.UK website at:* [*https://www.gov.uk/government/publications/government-security-classifications*](https://www.gov.uk/government/publications/government-security-classifications)*.)*

*[Use the appropriate Clause 3]*

* 1. [Either]

The Supplier shall be able to demonstrate conformance to, and show evidence of such conformance to the ISO/IEC 27001 (Information Security Management Systems Requirements) standard, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

*(Guidance: The Department’s expectation is that suppliers demonstrating conformance to ISO/IEC 27001 will be able to provide the Department with copies of their Scope of Conformance and Statement of Applicability.)*

[Or, for contracts involving the processing of particularly sensitive data]

12.3 The Supplier shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the services supplied to, or on behalf of, the Buyer. The scope of certification and the statement of applicability must be acceptable, following review, to the Buyer, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

* *(Guidance: The Department’s expectation is that suppliers claiming certification to ISO/IEC 27001 shall provide the Department with copies of their Scope of Certification, Statement of Applicability and a valid ISO/IEC 27001 Certificate issued by an authorised certification body. Where the provider is an SME that has a valid Cyber Essentials certification then certification under the ISO/IEC 27001 scheme could be waived and this clause may be removed.)* 
  1. The Supplier shall follow the UK Government Security Classification Policy (GSCP) in respect of any Buyer Data being handled in the course of providing this service, and will handle this data in accordance with its security classification. (In the event where the Supplier has an existing Protective Marking Scheme then the Supplier may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Buyer Data).
* *(Guidance: The Department’s expectations are that all contractors shall handle the Department’s information in a manner compliant with the GSCP. Details of the GSCP can be found on the GOV.UK website at:* [*https://www.gov.uk/government/publications/government-security-classifications*](https://www.gov.uk/government/publications/government-security-classifications)*.)* 
  1. Buyer Data being handled in the course of providing the ICT solution or service must be segregated from other data on the Supplier’s or sub-contractor’s own IT equipment to both protect the Buyer Data and enable it to be identified and securely deleted when required. In the event that it is not possible to segregate any Buyer Data then the Supplier and any sub-contractor shall be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 12.14.
* *(Guidance: Advice on HMG secure sanitisation policy and approved methods are described in HMG IS5.)*
  1. The Supplier shall have in place and maintain physical security and entry control mechanisms (e.g. door access) to premises and sensitive areas and separate logical access controls (e.g. identification and authentication) to ICT systems to ensure only authorised personnel have access to Buyer Data.
* *(Guidance: Where the contractor’s and sub-contractor services are wholly carried out within Departmental premises and all access to buildings or ICT systems is managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)* 
  1. The Supplier shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Buyer Data, including but not limited to: physical security controls; good industry standard policies and process; anti-virus and firewalls; security updates and up-to-date patching regimes for anti-virus solutions; operating systems, network devices, and application software, user access controls and the creation and retention of audit logs of system use.
* *(Guidance: Where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources or locations managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)* 
  1. Any electronic transfer methods across public space or cyberspace, including third party provider networks must be protected via encryption which has been certified to a minimum of FIPS 140-2 standard or a similar method approved by the Buyer prior to being used for the transfer of any Buyer Data.
* *(Guidance: The terms “public space” and “cyberspace” are used to describe the internet and any commercially provided third party network used to transmit Departmental information. Even where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources managed directly by the Department as part of the service, if there is still the possibility of emails being sent to external addresses, this clause should be included.)*
  1. Storage of Buyer Data on any portable devices or media shall be limited to the absolute minimum required to deliver the stated business requirement and shall be subject to Clause 12.10 and 12.11 below.
  2. Any portable removable media (including but not constrained to pen drives, flash drives, memory sticks, CDs, DVDs, or other devices) which handle, store or process Buyer Data to deliver and support the service, shall be under the control and configuration management of the Supplier or (sub-)contractors providing the service, shall be both necessary to deliver the service and shall be encrypted using a product which has been certified to a minimum of FIPS140-2 standard or use another encryption standard that is acceptable to the Buyer.
* *(Guidance: Where the use of removable media as described at Clause 12.9 above is either prohibited or not required in order to deliver the service this clause shall be revised as follows: - ‘The use of removable media in any form is not permitted’.)*
  1. All portable ICT devices, including but not limited to laptops, tablets, smartphones or other devices, such as smart watches, which handle, store or process Buyer Data to deliver and support the service, shall be under the control and configuration management of the Supplier or sub-contractors providing the service, and shall be necessary to deliver the service. These devices shall be full-disk encrypted using a product which has been certified to a minimum of FIPS140-2 standard or use another encryption standard that is acceptable to the Buyer.
* *(Guidance: Where there is no suitable FIPS140-2 encryption product available to provide the necessary full-disk encryption, the Department shall agree a suitable alternative product that meets ‘industry good practice’ in this area with the contractor or sub-contractor. Where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)* 
  1. Whilst in the Suppliers care all removable media and hardcopy paper documents containing Buyer Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure waste paper organisation.
* *(Guidance: The term ‘lock and key’ is defined as: “securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user’s sole control and to which they hold the keys”.)*
  1. When necessary to hand carry removable media and/or hardcopy paper documents containing Buyer Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has access to the material being carried. This clause shall apply equally regardless of whether the material is being carried inside or outside of company premises.
* *(Guidance: The term ‘under cover’ means that the information is carried within an opaque folder or envelope within official premises and buildings and within a closed briefcase or other similar bag or container when travelling outside of official premises or buildings).*
  1. At the end of the contract or in the event of equipment failure or obsolescence, all Buyer information and data, in either hardcopy or electronic format, that is physically held or logically stored on the Suppliers ICT infrastructure must be securely sanitised or destroyed in accordance with the current HMG policy (HMG IS5) using a CESG approved product or method. Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as a Storage Area Network (SAN) or shared backup tapes, then the Supplier or sub-contractor shall protect the Buyer’s information and data until the time, which may be long after the end of the contract, when it can be securely cleansed or destroyed.
* *(Guidance: Where no departmental information or data shall be held by the Contractor or sub-contractor, in either physical or logical form this clause may be removed.)*
* *(Guidance: Where there is no acceptable secure sanitisation method available for a piece of equipment, or it is not possible to sanitise the equipment due to an irrecoverable technical defect, the storage media involved shall be destroyed using an approved method described in HMG IS5.)*
  1. Access by Supplier or sub-contractor staff to Buyer Data shall be confined to those individuals who have a “need-to-know” and the appropriate level of security clearance, as required by the Buyer for those individuals whose access is essential for the purpose of their duties. All employees with direct or indirect access to Buyer Data must be subject to pre-employment checks equivalent to or higher than the Baseline Personnel Security Standard (BPSS)
* *(Guidance: Further details of the requirements for BPSS clearance are available on the website at:* [*https://www.gov.uk/government/publications/security-policy-framework*](https://www.gov.uk/government/publications/security-policy-framework))
  1. All Suppliers or sub-contractor employees who handle Buyer Data must have annual awareness training in protecting information.
  2. The Supplier shall, as a minimum, have in place robust and ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures to ensure that the delivery of the contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might be, or could lead to, a disruption, loss, emergency or crisis. When a certificate is not available it shall be necessary to verify the ongoing effectiveness of the ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures, to the extent that the Supplier must have tested/exercised these plans within the last 12 months and produced a written report of the test/exercise, outcome and feedback, including required actions.
* *(Guidance: The creation of robust business continuity and disaster recovery plans are aligned with industry good practice and it is the Department’s expectation that all vendors providing services or infrastructure to the Department will have plans that are aligned to the ISO 22301 standard in place. Further information on the requirements of ISO 22301 may be found in the standard.)*
  1. Any non-compliance with these Departmental Security Standards for Suppliers, or other Security Standards pertaining to the solution, or any suspected or actual breach of the confidentiality, integrity or availability of Buyer Data being handled in the course of providing this service, shall be investigated immediately and escalated to the Department by a method agreed by both parties.
* *(Guidance: The Department’s expectation is that non-compliances, or any suspected or actual breach of the confidentiality, integrity or availability of the Department’s Data shall be reported as incidents and investigated by the vendor with outcomes being notified to the Department.)*
  1. The Supplier shall ensure that any IT systems and hosting environments that are used to hold Buyer Data being handled, stored or processed in the course of providing this service shall be subject to an independent IT Health Check (ITHC) using a CESG approved ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the service being provided are to be shared with the Buyer and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required.
* *(Guidance: Further information on IT Health Checks and the CESG CHECK Scheme which enables penetration testing by CESG approved companies can be found on the CESG website at:* [*https://www.cesg.gov.uk/scheme/penetration-testing*](https://www.cesg.gov.uk/scheme/penetration-testing)*.)*
  1. The Supplier or sub-contractors providing the service will provide the Buyer with full details of any actual storage outside of the UK or any future intention to host Buyer Data outside the UK or to perform any form of ICT management or support function from outside the UK. The Supplier or sub-contractor will not go ahead with any such proposal without the prior written agreement from the Buyer.
* *(Guidance: The offshoring of HMG information outside of the UK is subject to approval by the Departmental SIRO and, in some cases, also by the Office of the Government Senior Information Risk Owner (OGSIRO). Further information on this process can be found at:* [*https://ogsirooffshoring.zendesk.com/hc/en-us/articles/203107991-HMG-s-Offshoring-Policy*](https://ogsirooffshoring.zendesk.com/hc/en-us/articles/203107991-HMG-s-Offshoring-Policy))
  1. The Buyer reserves the right to audit the Supplier or sub-contractors providing the service within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Supplier’s, and any sub-contractors, compliance with the clauses contained in this Section.
  2. The Supplier shall contractually enforce all these Departmental Security Standards for Contractors onto any third-party suppliers, sub-contractors or partners who could potentially access Buyer Data in the course of providing this service.
  3. The Supplier shall deliver ICT solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current CESG Information Assurance Policy Portfolio and Departmental Policy. The Supplier will provide the Buyer with evidence of compliance for the solutions and services to be delivered. The Buyer’s expectation is that the Supplier shall provide written evidence of:
* Existing security assurance for the services to be delivered, such as: PSN Compliance as a PSN Customer and/or as a PSN Service; CESG Tailored Assurance (CTAS); inclusion in the Common Criteria (CC) or CESG Product Assurance Schemes (CPA); ISO 27001 / 27002 or an equivalent industry level certification. Documented evidence of any existing security assurance or certification shall be required.
* Existing HMG security accreditations that are still valid including: details of the body awarding the accreditation; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement. Documented evidence of any existing security accreditation shall be required.
* Documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Contractor shall provide details of who the awarding body or organisation will be and date expected.
  1. If no current security accreditation or assurance is held the Supplier and sub-contractors shall undergo appropriate security assurance activities as determined by the Buyer. Supplier and sub-contractors shall support the provision of appropriate evidence of assurance and the production of the necessary security documentation. This will include obtaining any necessary professional security resources required to support the Supplier’s and sub-contractor’s security assurance activities such as: a CESG Certified Cyber Security Consultancy (CCSC) or CESG Certified Professional (CCP) Security and Information Risk Advisor (SIRA)
* *(Guidance: It is Departmental policy that all systems used to store or process Departmental information and data shall achieve an acceptable level of security assurance. Further advice and guidance on the Department’s Security Assurance Model can be supplied on request.)*
* *(Guidance: Further information on the CCSC and CCP roles described above can be found on the CESG Website at:* [*http://www.cesg.gov.uk/awarenesstraining/certified-professionals/Pages/index.aspx*](http://www.cesg.gov.uk/awarenesstraining/certified-professionals/Pages/index.aspx)*)*

*\*End of Additional Clauses\**