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THIS AGREEMENT is dated 11/11/2020

PARTIES

- (1) THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS at 17 Smith Square, London, SW1P 3JR (**Authority**).

- (2) [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
(**Contractor**).

BACKGROUND

- (A) The Authority placed a contract notice 2020/S 153-376000 on 10/08/2020 in the Official Journal of the European Union seeking expressions of interest from potential service providers for the provision of Services (divided into Lots) to itself and the Other Contracting Bodies identified in the contract notice under a framework agreement.

- (B) The Authority invited any potential service providers (including the Contractor) on 05/08/2020 to tender for the provision of Poultry Culling Services.

- (C) On the basis of the Contractor's Tender, the Authority selected the Contractor to enter a framework agreement to provide services to those Customers who place Orders for Lots in accordance with this Framework Agreement.

- (D) This Framework Agreement sets out the procedure for ordering Services, the main terms and conditions for the provision of the Services and the obligations of the Contractor under this Framework Agreement.

- (E) It is the Parties' intention that Customers have no obligation to place Orders with the Contractor under this Framework Agreement or at all.

- (F) Execution of the Contract is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract is formed on the date on which both Parties communicate acceptance of its terms on the Authority's electronic contract management system ("Bravo").

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Framework Agreement.

APHA: means the Animal and Plant Health Agency.

Approval: means the prior written approval of the Authority.

Audit: means an audit carried out pursuant to clause 10.

Auditor: means the National Audit Office or an auditor appointed by the Authority as the context requires.

Authorised Representative: means the persons respectively designated as such by the Authority and the Contractor, the first such persons being set out in clause 30.

Authority: means the Department for Environment, Food and Rural Affairs.

Award Criteria: means the Evaluation and Award criteria as set out in the ITT.

Call-off Terms and Conditions: means the terms and conditions in 15.

Change of Control: means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.

Commencement Date: means 16/11/2020.

Controller: means that given in GDPR

Complaint: means any formal complaint raised by any Customer in relation to the performance under the Framework Agreement or any Contract in accordance with clause 20.

Confidential Information: means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and Contractors of the Contractor, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.

Contractors Lot(s): means the lots to which the Contractor has been appointed under this Framework agreement.

Call-off Contract or Contract: means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between a Customer and the Contractor comprising the Call-off Terms and Conditions (as may be amended pursuant to clause **Error! Reference source not found.**).

Customer: means the Authority and any other contracting authority (as defined in regulation 2 of the Regulations) described in the OJEU Notice.

Data Protection Legislation: means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy.

Data Protection Officer has the meaning given in the GDPR.

Data Subject: has the meaning given in the GDPR.

Data Subject Request: means a request made by, or on behalf of, a Data Subject in accordance with rights

Default: means any breach of the obligations of the relevant Party under a Contract (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Environmental Information Regulations: mean the Environmental Information Regulations 2004 (*SI 2004/3391*) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA: means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Framework Agreement: means this agreement and all Schedules to this agreement.

Framework Agreement Variation Procedure: means the procedure set out in 6.

Framework Providers: means the Contractor and other Contractors appointed as framework providers under this Framework Agreement.

Framework Year: means a period of 12 months, commencing on the Commencement Date.

Geographic Region: means the geographic area that is defined in the Specification of Requirements.

GDPR: means the General Data Protection Regulation (Regulation (EU) 2016/679).

Guidance: means any guidance issued or updated by the UK government from time to time in relation to the Regulations.

Information: has the meaning given under section 84 of the FOIA.

Intellectual Property Rights: means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including the United Kingdom) and the right to sue for passing off.

Law: means 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, regulatory policy, guidance or industry

code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

Lots: means the Services divided into lots as referred to in the OJEU Notice and set out in the ITT.

Month: means a calendar month.

OJEU Notice: means the contract notice 2020/S 153-376000 dated 10/08/2020 published in the Official Journal of the European Union.

Order or Order Form: means the form that is sent by the Authority to the Contractor to confirm the details of the requirement in accordance with the award procedures in *clause 4*.

Other Contracting Bodies: means all Customers except the Authority.

Parent Company: means any company which is the ultimate Holding Company of the Contractor and which is either responsible directly or indirectly for the business activities of the Contractor or which is engaged in the same or similar business to the Contractor. **Holding Company** shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.

Party: means the Authority and/or the Contractor.

Personal Data: has the meaning given in the GDPR.

Personal Data Breach: has the meaning given in the GDPR.

Pricing Matrices: means the pricing matrices set out in 04.

Prohibited Act: the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority;or

- (d) defrauding, attempting to defraud or conspiring to defraud the Authority.

Processor: has the meaning given in the GDPR.

Regulations: means the Public Contracts Regulations 2015 (*SI 2015/102*).

Regulatory Bodies: means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement or any other affairs of the Authority.

Requests for Information: means a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

Services: means the provision of Poultry Culling Services as detailed in 0, part 1.

Staff: means all persons employed by the Contractor together with the Contractor's servants, agents, Contractors and subcontractors used in the performance of its obligations under this Framework Agreement or Contracts.

Subcontract: any contract between the Contractor and a third party pursuant to which the Contractor agrees to source the provision of any of the Services from that third party.

Subcontractor: the contractors or service providers that enter into a Subcontract with the Contractor.

Specification of Requirements: means the Authority's requirements from the Services as set out in Schedule 1, part 1.

Tender: means the tender submitted by the Contractor to the Authority on [REDACTED]

Term: means the period commencing on the Commencement Date and ending on 06/10/2024 or on earlier termination of this Framework Agreement.

Termination Date: means the date of expiry or termination of this Framework Agreement.

Working Days: means any day other than a Saturday, Sunday or public holiday in England and Wales.

Year: means a calendar year.

1.2 The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;

- (c) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- (d) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (e) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (f) headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
- (g) the Schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement and any reference to this Framework Agreement shall include the Schedules;
- (h) references in this Framework Agreement to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered;
- (i) references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered; and
- (j) reference to a clause is a reference to the whole of that clause unless stated otherwise.

PART ONE: FRAMEWORK ARRANGEMENTS AND AWARD PROCEDURE

2. TERM OF FRAMEWORK AGREEMENT

The Framework Agreement shall take effect on the Commencement Date and (unless it is terminated in accordance with the terms of this Framework Agreement or is otherwise lawfully terminated) shall terminate at the end of the Term.

3. SCOPE OF FRAMEWORK AGREEMENT

- 3.1 This Framework Agreement governs the relationship between the Authority and the Contractor in respect of the provision of the Services by the Contractor to Customers.
- 3.2 The Authority appoints the Contractor as a Framework Provider of the Services and the Contractor shall be eligible to enter into a Call-off Contract and receive Orders for such Services from Customers during the Term.
- 3.3 Customers may at their absolute discretion and from time to time order Services from the Contractor in accordance with the ordering procedure set out in clause 4 during the Term. The Parties acknowledge and agree that the Other Contracting Bodies have the right to order Services pursuant to this Framework Agreement provided that they comply at all times with the Regulations and the ordering procedure in *clause 0*. If there is a conflict between *clause 4* and the Regulations, the Regulations shall take precedence.
- 3.4 If and to the extent that any Services under this Framework Agreement are required each and every Customer shall:
- (a) enter into a contract with the Contractor for these Services materially in accordance with the terms of the Contract; and
 - (b) comply with the ordering procedure in *clause 4*.
- 3.5 The Contractor acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Customer for the Services and that the Customer is at all times entitled to enter into other contracts and arrangements with other Contractors for the provision of any or all services which are the same as or similar to the Services.
- 3.6 The Authority shall not in any circumstances be liable to the Contractor or any Other Contracting Body for payment or otherwise in respect of any Services provided by the Contractor to any Other Contracting Body.

4. AWARD PROCEDURES

Awards under the Framework Agreement

- 4.1 The Authority and the Contractor shall enter into a Call-off Contract pursuant to this Framework Agreement. Once the Call-off Contract has been executed by both parties, the Contractor shall then become eligible to deliver the services in the Order form..

- 4.2 In Lots and Geographic Regions where multiple Contractors are appointed, the Authority will allocate Orders using the Selection Methodology as set out in the Specification of Requirements in Schedule 2.

Responsibility for awards

- 4.3 The Contractor acknowledges that each Customer is independently responsible for the conduct of its award of Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
- (a) the conduct of Other Contracting Bodies in relation to the Framework Agreement; or
 - (b) the performance or non-performance of any Contracts between the Contractor and Other Contracting Bodies entered into pursuant to the Framework Agreement.

Form of Order

- 4.4 Subject to clause 4.1 to clause 4.3 above, each Customer may place an Order with the Contractor by serving an order in writing in substantially the form set out in 06 or such similar form agreed with the Contractor including systems of ordering involving fax, e-mail or other online solutions.

5. CONTRACT PERFORMANCE AND PRECEDENCE OF DOCUMENTS

- 5.1 The Contractor shall perform all Contracts entered into with a Customer in accordance with:
- (a) the requirements of this Framework Agreement; and
 - (b) the terms and conditions of the respective Contracts.
- 5.2 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
- (a) the clauses of the Contract;
 - (b) the Order Form
 - (c) the terms of the Framework Agreement, the Schedules to the Framework Agreement and the Order Form
 - (d) any other document referred to in the clauses of the Contract; and
 - (e) the Contractor's Tender.

6. PRICES FOR SERVICES

- 6.1 The prices offered by the Contractor shall be based on the prices set out in the Pricing Matrices and tendered in accordance with the Specification of Requirements.
- 6.2 Prices must be submitted in £ Sterling, exclusive of VAT.
- 6.3 The Framework is to be awarded with maximum prices for Poultry Culling Services as set out in Schedule 4 of the Specification of Requirements.
- 6.4 Prices may be reviewed by both Parties each year from the Commencement Date to reflect current market conditions. Prices must be reviewed and formally accepted in writing by the Authority before a change in the Pricing Matrices is confirmed.

CONTRACTOR'S GENERAL FRAMEWORK OBLIGATIONS

7. WARRANTIES AND REPRESENTATIONS

The Contractor warrants and represents to the Authority and to each of the Other Contracting Bodies that:

- (a) it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;
- (b) this Framework Agreement is executed by a duly authorised representative of the Contractor;
- (c) in entering into this Framework Agreement or any Contract it has not committed any Prohibited Act;
- (d) as at the Commencement Date, all information, statements and representations contained in the Tender and the SQ Response are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority before the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets that will or might affect its ability to perform its obligations under

this Framework Agreement and any Contract which may be entered into with the Authority or Other Contracting Bodies;

- (f) it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Contract; and
- (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue.

8. SERVICE PRE-REQUISITES

The Contractor shall be responsible for obtaining all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Contract.

CONTRACTOR'S INFORMATION OBLIGATIONS

9. GOVERNANCE AND CONTRACT MANAGEMENT

- 9.1 APHA will appoint a Contract Manager (CM) responsible for overseeing the Framework Agreement and Call off Contracts for Services on behalf of the Authority.
- 9.2 The Contractor will appoint a corresponding Service Manager (SM).
- 9.3 A strategic review will be held annually depending on the volume of Call off activity, the meeting will review performance over the past year and look ahead to the next year, including strategic and financial issues. Where Call off activity has been light the Authority may choose to issue an online survey.
- 9.4 As part of the annual review, the Contractor will have the opportunity to submit updated Maximum Framework Rates to ensure they are reflective of the latest market conditions. The Contractor's ranking in each Lot will be adjusted accordingly following any changes to the Maximum Framework Rates.
- 9.5 Other ad hoc meetings may be held, at the discretion of the Authority or at the request of the Contractor, throughout the life of the Framework Agreement to discuss specific issues.
- 9.6 The Contractor will be responsible for travel and subsistence costs incurred as a result of attendance at any meeting. Meetings may also be held by

teleconference with the agreement of all parties. Annual meetings will be held at the most mutually convenient location if face-to-face or via teleconference.

- 9.7 Annual meetings will be minuted, with secretariat support and actions provided by the Authority, with agreed dates for completion. The Contractor will maintain a joint register of risks, issues and actions.
- 9.8 The CM should ensure that all meeting minutes, risk registers and any other contract documentation is recorded against the Authority's contract records.
- 9.9 Table B gives the purpose of each of these meetings with each Contractor, and the required attendees.

9.10 Table B. Contract Management Meeting Schedule

Meeting	Attendance	Content
<p>Specific Issues, ad hoc</p> <p><i>Face-to-face / Telecon</i></p>	<p>APHA:</p> <ul style="list-style-type: none"> • SLO (Chair) and/or DSLO • Secretariat support <p>Contractor:</p> <ul style="list-style-type: none"> • SM and/or DSM <p>Any other APHA, Authority or Contractor staff needed to progress the issue.</p> <p>NB - The CM or Head of Contract Management may alternatively Chair the meeting if facilitation is required.</p>	<ul style="list-style-type: none"> • Urgent issues • Specific technical or contractual issues requiring detailed discussion
<p>Annual Review Meeting (if required)</p> <p><i>Face-to-face Telecon</i></p>	<p>APHA:</p> <ul style="list-style-type: none"> • SLO and DSLO • CM • Head of Contract Management (Chair) 	<ul style="list-style-type: none"> • Annual Service Review • Risks and issues log • Specific service issues (including any escalated issues) • Service wide issues

	<ul style="list-style-type: none"> • Secretariat support • DGC representative (<i>optional, if required</i>) • Head of Service • Welsh & Scottish Government representative (<i>optional, if required</i>) <p>Contractor:</p> <ul style="list-style-type: none"> • SM and/or DSM • Any other representative that the Contractor feels relevant from within their organisation 	<ul style="list-style-type: none"> • Financial update • Strategic Overview (including any policy updates)
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10. RECORDS AND AUDIT ACCESS

- 10.1 The Contractor shall keep and maintain until six (6) years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Contracts entered into with Customers and the amounts paid by each Customer.
- 10.2 The Contractor shall keep the records and accounts referred to in clause 10.1 above in accordance with good accountancy practice.
- 10.3 The Contractor shall afford the Authority or the Auditor (or both) such access to such records and accounts as may be required from time to time.
- 10.4 The Contractor shall provide such records and accounts (together with copies of the Contractor's published accounts) during the Term and for a period of six years after expiry of the Term to the Authority (or relevant Customer) and the Auditor.
- 10.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Contractor or delay the provision of the Services pursuant to the Contracts, save insofar as the Contractor

accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.

- 10.6 Subject to the Authority's rights of confidentiality, the Contractor shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:
- (a) all information requested by the Auditor within the scope of the Audit;
 - (b) reasonable access to sites controlled by the Contractor and to equipment used in the provision of the Services; and
 - (c) access to the Staff.
- 10.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 10, unless the Audit reveals a Material Default by the Contractor in which case the Contractor shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

11. CONFIDENTIALITY

- 11.1 Subject to clause 11.2, the Parties shall keep confidential the Confidential Information of the other Party and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 11.2 Clause 11.1 shall not apply to any disclosure of information:
- (a) required by any applicable law
 - (b) that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement;
 - (c) that is reasonably required by Other Contracting Bodies;
 - (d) where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 11.1;
 - (e) by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;
 - (f) to enable a determination to be made under clause 21;
 - (g) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;

- (h) by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information; and
- (i) by the Authority relating to this Framework Agreement and in respect of which the Contractor has given its prior written consent to disclosure.

12. OFFICIAL SECRETS ACTS

- 12.1 The Contractor shall comply with and shall ensure that its Staff comply with, the provisions of:
- (a) the Official Secrets Acts 1911 to 1989; and
 - (b) section 182 of the Finance Act 1989.
- 12.2 In the event that the Contractor or its Staff fail to comply with this clause 12, the Authority reserves the right to terminate this Framework Agreement with immediate effect by giving notice in writing to the Contractor.

13. DATA PROTECTION

- 13.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 7. The only processing that the Contractor is authorised to do is listed in Schedule 7 by the Authority and may not be determined by the Contractor.
- 13.2 The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 13.3 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and

- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

13.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with Schedule 7 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

(c) ensure that :

(i) the Staff do not process Personal Data except in accordance with this Contract (and in particular Schedule 7);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Contractor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the European Union unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

(i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and

(iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

(e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

13.5 Subject to clause 25.6 the Contractor shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Contract, it:

(a) receives a Data Subject Request (or purported Data Subject Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority;

(e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(f) becomes aware of a Data Loss Event.

13.6 The Contractor's obligation to notify under clause E25.5 shall include the provision of further information to the Authority in phases, as details become available.

13.7 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause E25.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

(a) the Authority with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

(c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Authority following any Data Loss Event;

(e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

13.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

(a) the Authority determines that the processing is not occasional;

(b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

(c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

13.9 The Contractor shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.

13.10 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

13.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:

(a) notify the Authority in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Authority;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and

(d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

13.12 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.

13.13 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

13.14 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

13.15 This clause 25 shall apply during the Contract Period and indefinitely after its expiry.

14. FREEDOM OF INFORMATION

14.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Contractor shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;
- (b) transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
- (c) provide the Authority with a copy of all Information belonging to the Authority requested in the Request For Information which is in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
- (d) not respond directly to a Request For Information unless authorised in writing to do so by the Authority.

14.2 The Contractor acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Contractor. The Authority shall take reasonable steps to notify the Contractor of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

15. PUBLICITY

15.1 Unless otherwise directed by the Authority, the Contractor shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent.

15.2 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation on the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.

- 15.3 The Contractor shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

16. **GUARANTEE**

On the Authority's request and at the request of each Other Contracting Body, the Contractor shall procure that the Guarantor shall:

- (a) execute and deliver to the Authority or the relevant Other Contracting Body the Guarantee;
- (b) deliver to the Authority or Other Contracting Body a certified copy extract of the board minutes of the Guarantor approving the execution of the Guarantee.

FRAMEWORK AGREEMENT TERMINATION AND SUSPENSION

17. **TERMINATION**

Termination on Default

- 17.1 The Authority may terminate the Framework Agreement by serving written notice on the Contractor with effect from the date specified in such notice:

- (a) where the Contractor commits a material breach and:
 - (i) the Contractor has not remedied the material breach to the satisfaction of the Authority within 20 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the material breach and requesting it to be remedied; or
 - (ii) the material breach is not, in the reasonable opinion of the Authority, capable of remedy; or
- (b) where any Customer terminates a Contract awarded to the Contractor under this Framework Agreement as a consequence of a material breach by the Contractor;
- (c) any warranty given by the other party in clause 7 of this agreement is found to be untrue or misleading;
- (d) if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

- 17.2 For the purposes of clause 17.1(a), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of this agreement; or

- (b) any of the material obligations set out in this agreement, over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

Termination on insolvency and Change of Control

17.3 Without affecting any other right or remedy available to it, the Authority may terminate this agreement with immediate effect by giving [written] notice to the Contractor if:

- (a) the Contractor suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of Contractor with one or more other companies or the solvent reconstruction of the Contractor;
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Contractor (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Contractor with one or more other companies or the solvent reconstruction of the Contractor;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Contractor (being a company);
- (e) the holder of a qualifying floating charge over the assets of the Contractor (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor;
- (g) the Contractor (being an individual) is the subject of a bankruptcy petition or order;

- (h) a creditor or encumbrancer of the Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Contractor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 17.3(a) to clause 17.3(h) (inclusive); or
- (j) the Contractor suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

17.4 The Contractor shall notify the Authority immediately if the Contractor undergoes a Change of Control. The Authority may terminate the Framework Agreement by giving notice in writing to the Contractor with immediate effect within six Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control;

but shall not be permitted to terminate where an Approval was granted before the Change of Control.

Termination by Authority for convenience

17.5 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving one (1) months written notice to the Contractor. The Parties acknowledge that if the Authority exercises its rights under this clause 17.5 it shall exercise its equivalent rights under all agreements with the Framework Providers.

18. SUSPENSION OF CONTRACTOR'S APPOINTMENT

18.1 Without prejudice to the Authority's rights to terminate the Framework Agreement in clause 17 above, if a right to terminate this Framework Agreement arises in accordance with clause 17, the Authority may suspend, with immediate effect, the Contractor's right to receive Orders from Customers in any or all Contractor's Lots by giving notice in writing to the Contractor. If the Authority provides notice to the Contractor in accordance with this clause 18, the Contractor's appointment shall be suspended for the period set out in the notice or such other period notified to the Contractor by the Authority in writing from time to time.

- 18.2 Further to clause 18.1 above, in the event that the Authority suspends the Contractor's right to receive Orders, the Authority shall specify a reason for such suspension.
- 18.3 Whilst the Authority will endeavour to give the Contractor as much notice of a suspension as possible, certain circumstances may prevent such notice from being given and a suspension may take effect immediately from the date and time of notification to the Contractor.
- 18.4 Further to clause 18.3 above, notification to suspend the Contractor's right to receive Orders may be issued by the Authority verbally and followed up in writing as soon as reasonably practicable thereafter in which case, notification shall be deemed to be provided at the time it is verbally communicated to the Contractor.

19. CONSEQUENCES OF TERMINATION AND EXPIRY

- 19.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Contractor shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 19.
- 19.2 Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.
- 19.3 Within 30 Working Days of the date of termination or expiry of the Framework Agreement, the Contractor shall return or destroy at the request of the Authority any data, personal information relating to the Authority or its personnel or Confidential Information belonging to the Authority in the Contractor's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Contractor's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to 12 Months to comply with its obligations under the Framework Agreement, or such period as is necessary for such compliance.

19.4 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.

19.5 The provisions of clause 7, clause 10, clause 11, clause 12, clause 13, clause 14, clause 15, clause 19, clause 22, and clause 31 shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

20. COMPLAINTS HANDLING AND RESOLUTION

20.1 The Contractor shall notify the Authority of any Complaint made by Other Contracting Bodies within two Working Days of becoming aware of that Complaint and such notice shall contain full details of the Contractor's plans to resolve such Complaint.

20.2 Without prejudice to any rights and remedies that a complainant may have at Law, including under the Framework Agreement or a Contract, and without prejudice to any obligation of the Contractor to take remedial action under the provisions of the Framework Agreement or a Contract, the Contractor shall use its best endeavours to resolve the Complaint within ten Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

21. DISPUTE RESOLUTION

21.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Contract Manager of the Authority and Contract Manager of the Contractor shall attempt in good faith to resolve the Dispute;
- (b) if the Contract Manager of the Authority and Contract Manager of the Contractor are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Head of Contract Management of the Authority and the Head of Contract Management of the Contractor who shall attempt in good faith to resolve it; and
- (c) if the Head of Contract Management of the Authority and Head of Contract Management of the Contractor are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the

parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice.

- 21.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute under clause 31 which clause shall apply at all times.
- 21.3 If the Dispute is not resolved within 90 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 90 days, or the mediation terminates before the expiration of the said period of 90 days, the Dispute shall be finally resolved by the courts of England and Wales arbitration proceedings in accordance with clause 31 in this Agreement.

GENERAL PROVISIONS

22. PREVENTION OF BRIBERY

- 22.1 The Contractor:
- (a) shall not, and shall procure that the Staff and all Sub-Contractor personnel shall not, in connection with this Framework Agreement and any Contract made under it commit a Prohibited Act; and
 - (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Customer, or that an agreement has been reached to that effect, in connection with the execution of this Framework Agreement, excluding any arrangement of which full details have been disclosed in writing to the Customer before execution of this Framework Agreement.
- 22.2 The Contractor shall:
- (a) if requested, provide the Customer with any reasonable assistance, at the Customer's reasonable cost, to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
 - (b) within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Customer in writing (such certification to be

signed by an officer of the Contractor) compliance with this clause 22 by the Contractor and all persons associated with it or other persons who are supplying goods or services in connection with this Framework Agreement. The Contractor shall provide such supporting evidence of compliance as the Customer may reasonably request.

- 22.3 The Contractor shall have an anti-bribery policy (which shall be disclosed to the Customer) to prevent any Staff or Sub-Contractors from committing a Prohibited Act and shall enforce it where appropriate.
- 22.4 If any breach of clause 22.1 is suspected or known, the Contractor must notify the Customer immediately.
- 22.5 If the Contractor notifies the Customer that it suspects or knows that there may be a breach of clause 22, the Contractor must respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit books, records and any other relevant documents. This obligation shall continue for 6 years following the expiry or termination of this Framework Agreement.
- 22.6 The Customer may terminate this Framework Agreement by written notice with immediate effect if the Contractor, its Staff or Sub-Contractors (in all cases whether or not acting with the Contractor's knowledge) breaches clause 22.1. In determining whether to exercise the right of termination under this clause 22.6, the Customer shall give all due consideration, where appropriate, to action other than termination of this Framework Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or Contractor not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- (a) with the authority or with the actual knowledge of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
 - (b) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had such knowledge.
- 22.7 Any notice of termination under clause 22.6 must specify:
- (a) the nature of the Prohibited Act;
 - (b) the identity of the party whom the Customer believes has committed the Prohibited Act; and
 - (c) the date on which this Framework Agreement will terminate.

- 22.8 Despite clause 21, any dispute relating to:
- (a) the interpretation of this clause 22; or
 - (b) the amount or value of any gift, consideration or commission,
- shall be determined by the Customer and its decision shall be final and conclusive.

22.9 Any termination under this clause 22 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Customer.

23. SUBCONTRACTING AND ASSIGNMENT

23.1 Subject to clause 23.2 and clause 23.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Framework Agreement without the prior written consent of the other party, neither may the Contractor subcontract the whole or any part of its obligations under this Framework Agreement except with the express prior written consent of the Authority.

23.2 The Authority shall be entitled to novate the Framework Agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.

23.3 Provided that the Authority has given prior written consent, the Contractor shall be entitled to novate the agreement where:

- (a) the specific change in Contractor was provided for in the procurement process for the award of this agreement;
- (b) there has been a universal or partial succession into the position of the Contractor, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement.

24. VARIATIONS TO FRAMEWORK AGREEMENT

Any variations to the Framework Agreement must be made only in accordance with the Framework Agreement Variation Procedure set out in 08.

25. THIRD PARTY RIGHTS

25.1 Except as provided otherwise, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999

to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

- 25.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

26. SEVERANCE

- 26.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

- 26.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

27. RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

28. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

29. ENTIRE AGREEMENT

- 29.1 This Framework Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter, provided that nothing in this clause 29 shall operate to exclude any liability for fraud.

29.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation (or negligent misstatement) based on any statement in this Framework Agreement.

30. NOTICES

30.1 Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.

30.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), or by e-mail (confirmed (in either case) by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 30.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours, in the case of e-mail or fax or sooner where the other Party acknowledges receipt of such letters, or fax or e-mail.

30.3 For the purposes of clause 30.2, the address of each Party shall be:

(a) For the Authority:

The APHA Contract Manager

Address: APHA, Pavillion H1, County Hall, Spetchley Road, Worcester, WR5 2NP

For the attention of: Richard Vaughan

Tel: 0208 565 4186

E-mail: contractmanagement@apha.gov.uk

(b) For the Contractor:

[REDACTED]



30.4 Either Party may change its address for service by serving a notice in accordance with this clause.

31. GOVERNING LAW AND JURISDICTION

31.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

31.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 – Specification of Requirements (Services)

This Section sets out the Authority’s requirements.

GLOSSARY

- Unless the context otherwise requires, the following words and expressions used within this Specification of Requirements shall have the following meanings (to be interpreted in the singular or plural as the context requires):

TERM	MEANING
“AP”	means ‘Affected Premises’ which are subject to a notice of the Secretary of State/Scottish Ministers/Welsh Ministers declaring it to be either infected with a disease (Infected Premises) or where there is a strong suspicion that an Exotic Notifiable Disease may be present. Entry and exit restrictions are likely to apply.
“APHA”	means the Animal and Plant Health Agency, an Executive Agency of the Authority.
“Authority”	means the Department for Environment, Food and Rural Affairs acting as part of the Crown.
“Authority’s Authorised Representative”	means an authorised representative nominated by the Authority, the APHA or other Contracting Body.
“Bravo”	means the e-Tendering system used by the Authority for conducting this procurement, which can be found at http://defra.bravosolution.co.uk .
“BAU”	means business as usual.
“C&D”	means cleansing and disinfecting.
“Call-Off Contract”	means a contract awarded by a Contracting Body using the Framework.
“Call-Off Procedure”	means the process by which a Contracting Body will place Orders with and award Call-Off Contracts to a Contractor as set out in Schedule 3.
“Case Officer”	means an authorised representative nominated by the Authority to manage all activities on an AP where disease control operations are taking place.
“Conflict of Interest”	means an actual or potential conflict of interest on the part of the Tenderer in connection with the ITT or the Framework.
“Contracting Body”	means the Authority or any other contracting bodies described in the ITT, entitled to order Services under the Framework.
“Daily Routine Work”	means The Contractor’s own business services which may or may not continue at the same time as any Call-Off Contract.
“EIR”	means the Environmental Information Regulations 2004 (as amended) together with any guidance and/or codes of practice issued by the Information Commissioner or any Government Department in relation to those Regulations.
EU	means European Union.

“Exotic Notifiable Disease”	means an animal disease which is not normally present in a country, which by law must be reported to the appropriate animal health authorities.
“FOIA”	means the Freedom of Information Act 2000 (as amended) and any subordinate legislation made under that Act together with any guidance and/or codes of practice issued by the Information Commissioner or any Government Department in relation to that legislation.
“Framework”	means the agreement to be entered into by the Authority and the Tenderers who are awarded a place on the Framework.
“Framework Term”	means the full length of the Framework; in this instance 4 years.
“GB”	means England, Scotland and Wales including offshore islands with no fixed crossing.
“Goods”	means the Goods as described in the Specification of Requirements.
“Incident”	means an occasion, which may or may not include an occurrence of Exotic Notifiable Disease, where the Services may be required at short notice (for example within six (6) to twelve (12) hours).
“ITT”	means this invitation to tender document and all related documents published by the Authority and made available to Tenderers.
“Keeper”	means any person who owns or is responsible for farmed livestock animals whether on a permanent or temporary basis, but it does not include a person responsible for an animal solely because they are transporting it.
“Lot(s)”	means Services divided into lots as described at Section 2 of the Specification of Requirements.
“OJEU Notice”	means the advertisement issued in the Official Journal of the European Union in respect of this ITT.
“Order / Order Form”	means the form that is sent or the request that is made to the Contractor to confirm the Service required.
“Outbreak”	means an occurrence of Exotic Notifiable Disease at one or more premises.
“PPE”	means Personal Protective Equipment.
“Pricing Schedule”	means the form accessed via Bravo in which Tenderers are required to submit their pricing information as part of a Tender.
“Provider”	means the successful Tenderer(s) who will be a party to the Framework Agreement responsible for supplying the Goods or Services.
“Quarantine Fee”	means a fee that may be paid by a Contracting Body to the Contractor for the required period of quarantine during an outbreak after the provision of the Services.
“Response”	means the information submitted in response to this ITT via the online response forms on Bravo including the Tenderer’s formal Tender.
“RPE”	means Respiratory Protective Equipment.
“Call-Off Procedure”	means the process by which a Contracting Body will place Orders with and award Call-Off Contracts to a Contractor as set out in Schedule 3.

“Service(s)”	means services as described in the Specification of Requirements.
“Specification of Requirements”	means the Authority’s requirements as set out in the ITT.
“Staff”	means the Contractor’s workforce.
“Sub-Contractor”	means a firm or person that carries out some portion of the work or Services on behalf of the Contractor.
“Tender”	means the formal offer to provide the goods or services described in the Specification of Requirements and comprising the responses to the questions in Bravo and the Pricing Schedule.
“Tenderer”	means anyone responding to the ITT and, where the context requires, includes a potential tenderer.
“WATOK”	means welfare at time of killing
“Working Day”	means any day other than a weekend or Bank Holiday in England, Wales or Scotland.

- References to a “Schedule”, “Section”, “Annex” and to an “Appendix” are references to a section and to an appendix to this Specification.
- Reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1. BACKGROUND TO THE REQUIREMENT

- 1.1** The Animal and Plant Health Agency (APHA) is an Executive Agency of the Authority and delivers the Animal Health and Welfare policies of the Authority, Scottish Government and Welsh Government across Great Britain (GB). One of its principal functions is the safeguarding of animal health and welfare and public health, which in turn supports economic growth and trade.
- 1.2** APHA has a critical role in the control and eradication of endemic and exotic notifiable and reportable diseases including responding to Outbreaks and Incidents, for example Notifiable Avian Disease or Swine Fever. APHA and other GB government (central, devolved and local authorities) may have a need to employ a range of contractors to deliver certain types of work on its behalf.
- 1.3** Some of this work may be needed to be delivered as part of day to day business requirements, such as training events, and it is expected that there will be a lead in period to deliver these Goods and Services. In the event of an Outbreak or Incident, these Goods and Services may be required to be delivered at very short notice (within six (6) to twelve (12) hours). Some of these Goods and Services will be delivered side by side with government employees and other contracted bodies – while some will be expected to be delivered independently (under the direction of the Contracting Body).
- 1.4** When certain diseases enter the country, government is required to respond in a prompt manner to deal with the Outbreak or Incident. Diseases can have a major impact on the economy, and the type of disease will dictate the type of response that is required to be initiated. Generally, infected animals (and any

other susceptible species on the same holding) are culled and disposed of in a humane manner. The Contracting Body will advise of any special requirements that may apply at the time of issuing a Call off Contract.

- 1.5** Although the UK has voted to leave the EU, and the Government has begun the exit process, EU legislation will continue to be implemented in the UK until the formal date of exit. The Contractor should note the possibility of amendments to relevant legislation and the potential impact on delivery of the services within this requirement as a result of EU Exit.

2 FRAMEWORK STRUCTURE

- 2.1** This Framework Agreement is for the delivery of Poultry Culling Services across GB, both for BAU requirements such as training events and as part of a response to an outbreak or incident.

- 2.2** The Service requirements are divided into four (4) Lots as set out below:

- a) LOT 1: Containerised Gassing Unit (CGU) services, including the Supply of Gasses and Poultry Catching Services
This Lot is designed to provide a fully comprehensive Service for both the catching and culling of birds using CGUs.
- b) LOT 2: Poultry Catching Services
- c) LOT 3: Supply of Gasses for Containerised Gassing Units (CGUs)
- d) LOT 4: Maintenance of APHA owned Containerised Gassing Units (CGUs)

- 2.3** Where ticked below, the Contractor has been awarded the Lot(s)

Lot 1 – Containerised Gassing Unit (CGU) services	
Lot 2 – Poultry Catching Services	
Lot 3 – Supply of Gasses for Containerised Gassing Units (CGUs)	
Lot 4 – Maintenance of APHA owned CGUs	

3 SCOPE OF THE REQUIREMENT

3.1 This Specification of Requirements sets out the requirements applicable to each Lot. Some requirements are applicable to all Lots and some apply only to specific Lots, as detailed below:

(a) Standards and Regulations – **all Lots**;

(b) Lot Specific Technical Requirements:

- (i) Lot 1: See Section 5 & 6 below
- (ii) Lot 2: See Section 6 below
- (iii) Lot 3: See Section 7 below
- (iv) Lot 4: See Section 8 below

(c) General requirements applicable to **all Lots**:

- (i) Documentation: See Section 9 below
- (ii) Equipment and Supplies: See Section 10 below
- (iii) Security: See Section 12 below
- (iv) Performance Management: See Section 13 below
- (v) Welsh language Standards: See Section 15 below
- (vi) Sub-Contracting: See Section 16 below
- (vii) Invoices: See Section 17 below

3.2 Lot 2 only will be divided in to eight (8) Geographical Regions as set out below:

Region Number		
REGION 1	Scotland North	Orkney, Caithness, Sutherland, Ross & Cromarty, Moray, Nairn, Banffshire, Aberdeenshire, Inverness-Shire, Kincardineshire, Angus, Perth, Kinross, Clackmannanshire, Shetland
REGION 2	Scotland South	Argyll, Dunbartonshire, Bute, Renfrew, Fife, Stirling, West Lothian, Midlothian & Edinburgh, East Lothian, Berwickshire, Lanarkshire, Ayrshire, Peebles, Selkirk, Roxburgh, Dumfriesshire, Kirkcudbright, Wigtown
REGION 3	Wales North	Isle of Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd, North Powys (County of Montgomeryshire), Wrexham
REGION 4	Wales South	Blaenau Gwent, Bridgend, Caerphilly, Cardiff, Merthyr Tydfil, Monmouthshire, Neath and Port Talbot, Newport, South Powys (counties

		of Radnorshire and Brecknock), Swansea, Rhondda Cynon Taff, The Vale of Glamorgan, Torfaen, Carmarthenshire, Ceredigion, Pembrokeshire,
REGION 5	North England	Cleveland, Cheshire, Cumbria, Durham, Lancashire, Merseyside, Tyne & Wear, Northumberland, Greater Manchester, South Yorkshire, North Yorkshire, West Yorkshire, North Yorkshire, East Riding of Yorkshire
REGION 6	Midlands	Oxfordshire, Gloucestershire, Avon, Herefordshire, Worcestershire, Warwickshire, Northamptonshire, Leicestershire, Rutland, West Midlands, Derbyshire, Lincolnshire, Nottinghamshire, Shropshire, Staffordshire
REGION 7	South & East England	Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hampshire, Isle of Wight, Hertfordshire, Kent, Greater London, Norfolk, Suffolk, Surrey, East Sussex, West Sussex
REGION 8	South West England	Somerset, Dorset, Wiltshire, Cornwall, Devonshire, Isles of Scilly.

- 3.3** Where multiple Contractors are appointed to a Lot in a Geographical Region where applicable, Orders will be allocated to Contractors in accordance with the Call-Off Procedure described in Schedule 2.
- 3.4** The Contractor shall, under the terms of the Framework Agreement with the Authority and any Call-Off Contract thereunder, provide the Goods and Services as detailed in this Specification of Requirements for the relevant Lot tendered and awarded for and the relevant Call-Off Order Form.
- 3.5** There is no guarantee of work or indicative volumes and the Contractor should expect volumes to fluctuate due to changes in disease prevalence and Government policy. Moreover, the Framework and any Call-Off Contracts thereunder do not give the Contractor an exclusive right to carry out the Services or supply the Goods. The Authority reserves the right to purchase any Goods or Services similar to the Goods and Services covered by this procurement from any Provider outside this Framework.

4 STANDARDS AND REGULATIONS – All Lots

- 4.1** The Contractor shall comply with all relevant EU and UK legislation and policy in force (as amended from time to time), as relevant to the Services, for its sub-contractors, employees, customers and members of the public, including but not limited to:

- 4.2** The Contractor and all sub-contractors are required to have a Health & Safety policy which covers the minimum standard laid out in the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 and subsequent amendments. Work must not be carried out in contravention of this legislation.
- 4.3** The Contractor must follow the relevant health and safety guidelines issued to protect humans from diseases as can be found on the gov.uk website, under [‘how to prevent and control farm diseases that can infect humans’](#) and wales.gov.uk under [‘biosecurity’](#). Further guidelines may also be issued depending on the circumstances at the point of order.
- 4.4** The Contractor must carry out the necessary generic risk assessments and introduce control measures to ensure compliance with the foregoing and any other relevant legislation.
- 4.5** The Contractor must ensure that Staff supplied as part of the Service are fit and able to carry out the tasks required of them. It will be the Contractor’s responsibility to assess the suitability of the Staff and undertake occupational health checks as they deem appropriate.
- 4.6** The Contractor must ensure that directly employed or sub-contracted Staff are aware that if they are working as part of a disease control operation, it’s highly likely that as part of the process, large numbers of animals may need to be killed. Any such operation is likely to gain the attention of the local or national media. The situation is likely to be highly pressured and emotive – especially if dealing with Keepers whose animals have been depopulated as part of the disease control operation or perhaps dealing with animal rights activists. For these reasons, directly employed or sub-contracted Staff must be appropriately trained to deal with high pressure and potentially sensitive situations.
- 4.7** The Contractor must ensure that all directly employed or sub-contracted Staff have access to the appropriate support during and for a period after their deployment to deal with any mental health and wellbeing issues that a mass depopulation may trigger.
- 4.8** The Contractor must ensure that safe working procedures are devised and followed with clear guidelines given for all to follow. This includes ensuring that no dangerous items are left unattended at any time. In an Outbreak or Incident, as part of the Contracting Body’s induction on to the AP site, additional instructions may be provided detailing Health and Safety guidelines which must be followed.
- 4.9** In the event of any accidents occurring, the Contractor shall keep full and detailed records of the issue or incident, inform the Contracting Body immediately and must co-operate fully with any accident investigation.

4.10 In an Outbreak or Incident where zoonotic diseases are present it may be a condition of the Call-Off Contract that any person(s) attending the AP are willing to be vaccinated and take anti-viral medicines as directed. Such vaccinations or medicines are normally provided by the Contracting Body, but where this is not the case, the Contractor will be expected to provide these and the Contracting Body will reimburse the reasonable costs of provision of immunisation and anti-viral prophylaxis. Evidence of these costs must be provided by the Contractor.

4.11 The Contractor must help to minimise the risk of disease occurring or spreading, safeguarding the health and welfare of animals and protecting the viability of businesses by adopting appropriate biosecurity measures. These must as a minimum be the equivalent to the following Defra, Welsh Government and Scottish Government Standards:

<https://www.gov.uk/guidance/controlling-disease-in-farm-animals>

<https://gov.wales/biosecurity-guidance>

<http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/Diseases/15721>

4.12 The Contractor shall endeavour to avoid any adverse impact on the environment that may arise from delivery of the Service, specifically on farm kill and removal operations, including the use of approved disinfectant. This must include disinfecting all footwear and protective clothing and as a minimum all wheel arches on vehicles or any other equipment moved on and off an AP. Further information can be found at:

<https://www.gov.uk/guidance/defra-approved-disinfectant-when->

[and-how-to-use-it](https://www.gov.uk/guidance/defra-approved-disinfectant-when-and-how-to-use-it)

5 CONTAINERISED GASSING UNIT SERVICES – Lot 1

- 5.1 Containerised Gassing Units (CGUs) may be required to deal with depopulation activities on a poultry farm. Trained and appropriately WATOK certified Staff should be provided as part of this service, as should the CGU, the requisite gas mix, any PPE/RPE (see Schedule 5 & Schedule 6) required and any manual handling equipment (e.g. a Tele handler) to move kit about the farm. Note that the term “CGU Operators” includes all employees of the Contractor engaged with delivering the Services on the AP.
- 5.2 An acceptable gas mix is an oxygen free argon/carbon dioxide mix at a ratio of 80/20. Under certain circumstances a maximum oxygen content of 2% may be acceptable. If water fowl are being dealt with the required gas mix would have a 0% oxygen mix. The required gas mix will be included in any Order.
- 5.3 Operations may only begin when permission is granted by the Authority and/or Other Contracting Body’s on-site representative which may be the Case Officer. The Authority and/or Other Contracting Body reserves the right to oversee these operations to ensure compliance with relevant welfare legislation.
- 5.4 In an Outbreak or Incident, CGU Operators and their equipment will be licensed to move on and off APs, by issue of a licence from the Contracting Body. The licence will prescribe what must and must not happen on the AP and requires the CGU Operators to follow strict bio-security guide lines, including wearing required PPE and RPE. Failure to observe the measures required in the notice is an offence under the Animal Health Act 1981, section 73. CGU Operators may be required to go through an induction process to work on each AP.
- 5.5 In an Outbreak or Incident, anybody entering an AP may be subject to a ‘quarantine’ period after the provision of the Services, meaning that they may not be allowed to have contact with susceptible live animals for a specified number of hours after entering an AP.
- 5.6 If a CGU Operator’s normal day to day employment obligations requires direct contact with live susceptible animals, and the required quarantine period (72/96 hours dependent on the disease and provision of suitable evidence by the Contractor to confirm the impact of the quarantine on the normal obligations of the Staff) prevents them from performing other usual work/tasks relating to their employment, a quarantine fee **may be** paid by the Authority and/or Other Contracting Body to the Contractor for the required period of quarantine (subject to the type of disease). The Quarantine Fee will be a tendered rate (per 24hour period) and will apply up to a maximum of 4 days. This rate and the duration applicable will be confirmed at the point of Call-Off.

- 5.7** The Contractor should make all reasonable efforts to re-deploy their Staff to other work areas that do not expose them to susceptible species. If the person is able to perform other paid work in the quarantine period, then no payment from the Authority and/or Other Contracting Body will be made. At the time of Call Off the Contractor must confirm if this quarantine period will affect any of their Staff. This will then be taken into account by the Authority and/or Other Contracting Body when awarding the Call-Off Contract.
- 5.8** If CGU Operators live with, but do not work with, susceptible animals (e.g. pets), then no quarantine payments will be made to the Contractor. For example, where an employee cannot go home during or after the period of provision of the Services because they have a pet at home which may be susceptible to infection, any expenses associated with this will not be payable by the Authority and/or Other Contracting Body.
- 5.9** The Contractor must provide the Services using CGU Operators that have the appropriate experience, knowledge, training and where applicable, the relevant species licence (Welfare at Time of Killing [WATOK] or Welfare at Slaughter and Killing [WASK]) as described within this Specification of Requirements. The Contractor should ensure that all CGU Operators supplied are competent in the provision of the Services (or are working under the supervision of a suitably qualified person) and have all licences and permits required and up to date. Further evidence of competence may be required throughout the life of the Framework and prior to any Call-Off Contracts being made. This will be at the discretion of the Authority and/or Other Contracting Body.
- 5.10** The Contractor, in accordance with WATOK/WASK legislation must document their methods for the killing of animals and related operations in advance and shall carry them out in accordance with their own standard operating procedures. The standard operating procedures ensure that killing and related operations are carried out in accordance appropriate legislation and recommendations for the equipment used; how animals will be checked to ensure an effective stun/kill has been performed and to specify the measures to be taken when the checks reveal that an animal is not properly stunned or killed. The Authority and/or Other Contracting Body reserves the right to check these standard operating procedures at any time through the life of the Framework. Provider's should attend each AP with a generic standard operating procedure which can be updated to include site specific considerations.
- 5.11** In an Outbreak or other Incident, CGUs and Operators may need to be available and ready at the AP or other location as soon as possible, and usually within 12-24 hours' notice unless otherwise agreed.

- 5.12** The Contractor and/or CGU Operator must inform the Contracting Body (and their on-site representative), if they become aware of any potential conflicts of interest relating to their performance of the Services.
- 5.13** Full PPE and RPE (see Schedule 5 & Schedule 6) will be required to be worn by CGU Operators in disease control operations. Advice will be sought from the relevant public health authority, but if the disease is zoonotic, it is likely that antiviral treatment and health surveillance may also be required.
- 5.14** It is essential that detailed auditable records are maintained. The Contractor is responsible for maintaining records of all Services provided under any Call-Off Contract, including details of locations, number and species of animal culled, type of gas mix used, quantities of gas mix used, duration of bird's exposure to gas and the names of the CGU Operators involved. All records must be retained for at least six years from the date of creation. The Contractor may be required to prepare a post deployment report regarding the depopulation activity.

6 POULTRY CATCHING SERVICES – Lot 1 & 2

- 6.1** These Services will be required for animal disease Outbreak and Incident support. There may also be a small element of BAU work in relation to internal training programmes undertaken by the Authority and/or Other Contracting Body.
- 6.2** The intention of these Services is to seek Contractors that can assist the Authority and/or Other Contracting Body in catching poultry in a welfare friendly manner prior to any other process being undertaken.
- 6.3** CGU services may be provided by the Authority and/or Other Contracting Body or another Provider(s) as detailed in Lot 1 of the Specification. Other processes which require assistance may include the taking of blood samples, clinical inspection or possibly culling the birds.
- 6.4** The preferred method of culling poultry involves the use of CGUs with carbon/inert gas mixtures. Using this method requires the prior catching and collection of birds and placing them in poultry industry standard modules. Other culling methods may be used at the Authority and/or Other Contracting Body's discretion, and in particular where this may impact on the welfare of animals (i.e. use of high CO2 concentration) this must be cleared in advance with the Authority and/or Other Contracting Body.
- 6.5** The catching and handling methods will depend on the size and species of poultry but shall meet with relevant administration's code of recommendations.
England:
<https://www.gov.uk/government/publications/poultry-on-farm-welfare>
Scotland:
<http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/AnimalWelfare/farmed>

Wales:

<https://gov.wales/animal-welfare>

- 6.6 The Contractor's Workforce must be familiar with and have experience of these catching techniques. Poultry Catchers may also be required to handle poultry carcasses or assist with other general labour work as directed by the Case Officer.
- 6.7 Operations may only begin when the Authority and/or Other Contracting Body grants permission and all Staff will be required to follow the instructions of the Authority and/or Other Contracting Body.
- 6.8 In an Outbreak or Incident, Poultry Catchers may be licensed to move on and off premises which are under restriction, by issue of a notice from the Authority and/or Other Contracting Body. The notice will prescribe what must and must not happen on the AP and will require the Poultry Catcher to follow strict bio-security guidelines, including wearing required PPE (see Schedule 5 & Schedule 6), and what sort of equipment can be brought on to site. Failure to observe the measures required in the notice is an offence under the Animal Health Act 1981, section 73 (as amended).
- 6.9 Full PPE and RPE (see Schedule 5 & Schedule 6) will be required to be worn by Poultry Catchers in disease control operations. Advice will be sought from the relevant public health authority, but if the disease is zoonotic, it is likely that antiviral treatment and health surveillance may also be required.
- 6.10 Poultry Catchers may be required to be inducted on to each AP. Regardless of this, the Contractor is expected to ensure that all Poultry Catchers are aware of their responsibilities on site, including the responsibility to comply with all instructions given by persons appointed by the Authority and/or Other Contracting Body with responsibility for overseeing the operation of the AP.
- 6.11 In an Outbreak or Incident, anybody entering an AP may be subject to a 'quarantine' period after the provision of the Services, meaning that they may not be allowed to have contact with susceptible live animals for a specified number of hours after working on an AP.
- 6.12 If a Poultry Catcher's normal day to day employment obligations requires direct contact with live susceptible animals, and the required quarantine period (72/96 hours dependent on the disease and provision of suitable evidence by the Contractor to confirm the impact of the quarantine on the Poultry Catchers normal obligations) prevents them from performing other usual work/tasks relating to their employment, a quarantine fee **may be** paid by the Authority and/or Other Contracting Body to the Contractor for the required period of quarantine (subject to the type of disease). The Quarantine Fee will be a tendered rate (per 24-hour period) and will apply up to a maximum of 4 days. This rate and duration will be confirmed at the point of Call Off.
- 6.13 The Contractor shall make all reasonable efforts to re-deploy their Staff to other work areas that do not expose them to susceptible species. If the Poultry Catcher is able to perform other paid work in the quarantine period, then no payment from the Authority and/or Other Contracting Body will be made. At the time of Call-Off the Contractor must confirm if this quarantine period will affect any of their

Staff. This will then be taken into account by the Authority and/or Other Contracting Body when awarding the Call-Off Contract.

- 6.14** If Poultry Catchers care for (e.g. backyard poultry or small-scale livestock keeper) or live with (e.g. pets) but do not work with, susceptible animals no quarantine payments will be made to the Contractor. For example, where an employee cannot go home during or after the period of provision of the Services because they have a pet at home which may be susceptible to infection, any expenses associated with this will not be payable by the Authority and/or Other Contracting Body.
- 6.15** The Contractor shall supply Poultry Catchers that have the appropriate experience, knowledge and training as described within this Specification of Requirements. The Contractor should ensure that all Poultry Catchers supplied are competent in the provision of the Services. Further evidence of competence may be required throughout the life of the Framework and prior to any Call-Off Contracts being made at the discretion of the Authority and/or Other Contracting Body.
- 6.16** In an Outbreak or other Incident, Poultry Catchers may need to be available and ready at the AP or other location as soon as possible, typically within 12-24 hours. In the event of BAU work being required a lead time for providing this Service will be agreed.
- 6.17** The Contractor and/or Poultry Catcher must inform the Authority and/or Other Contracting Body (and their on-site representative) if they become aware of any potential conflicts of interest relating to their performance of the Services.
- 6.18** Poultry Catchers may be required to travel between APs, or between different locations that are part of the same AP. The Contractor will need to ensure that their Staff have appropriate transport.
- 6.19** The Contractor and Poultry Catchers may be required to work together with other individuals from the Authority and/or Other Contracting Body along with other Provider organisations.
- 6.20** Other tasks may also be requested of Poultry Catchers throughout the provision of the Services, such as assisting with preliminary cleansing and disinfection or assisting in the collection of carcasses and eggs. This will be at the defined at the point of Call-Off where possible or will be discussed with the Contractor's onsite representative once deployed.
- 6.21** Poultry Catchers may be provided in teams. At least one Poultry Catcher in each team must be able to communicate clearly and effectively in English/Welsh (both orally and writing), and that Poultry Catcher must also be able to communicate with the other Poultry Catchers within the team.
- 6.22** It is the Contractor's responsibility to ensure compliance with the UK Working Time Directive.
- 6.23** It is the Contractor's responsibility to ensure compliance with the [Gangmasters \(licencing\) Act 2004](#) and other [GLA \(Gangmasters & Labour Abuse Authority\) requirements](#).

- 6.24** The Contractor must carry out the relevant checks to ensure that all Poultry Catchers supplied are legally permitted to work in the UK and are physically and psychologically capable of carrying out the Services. The Contractor must also verify the Poultry Catchers identity and employment history.
- 6.25** The above checks may be carried out or verified by the Authority and/or Other Contracting Body in certain circumstances, for example if a Provider is themselves a Poultry Catcher, as this may present a conflict of interest. The Contractor must supply all relevant information as required for this purpose.

7 SUPPLY OF GASSES FOR CONTAINERISED GASSING UNITS – LOT 3

- 7.1** In the event of an Outbreak or Incident, various means of euthanasia may be employed by the APHA. One such method is a system which has been devised and set up for the gassing of birds in CGUs.
- 7.2** These containers have been specifically designed for the purpose, utilising standard modules in common use in the poultry industry for containing the birds.
- 7.3** This Lot has been included to allow the Authority and/or Other Contracting Body's to call off the gas for use in their own CGUs. An acceptable gas mix is an oxygen free argon/carbon dioxide mix at a ratio of 80/20. Under certain circumstances a maximum oxygen content of 2% may be acceptable. If water fowl are being dealt with the required gas mix would have a 0% oxygen mix. The required gas mix will be included in any Order.
- 7.4** There may be a small amount of BAU work within this Lot, mainly around supporting APHA field training activities. In these instances, a stated quantity of gas would be required and a lead in time would be given to the Contractor to allow the order to be filled and delivered.
- 7.5** In the event of an Outbreak or Incident, there is a potential that large quantities of gas may be required at short notice over a sustained period. This may mean the Contractor will need to prioritise work to allow the filling of the required number of cylinders as well as arranging for a process of collecting empty cylinders from APs to allow refill throughout the culling operations.
- 7.6** Gas may be required at any location in GB and should be delivered in single cylinders or via banks of modules. A range of cylinder sizes may be required. The Contractor shall ensure all legislative requirements are met during the production and transport of gas.
- 7.7** In an Outbreak or Incident situation, gas would be delivered to the required location and would not require the vehicle or driver to cross the "clean and dirty line" (the boundary of the AP, as prescribed by the Authority's restriction

notice). Delivery vehicles should have their own ability to off load the cylinders from the vehicles.

- 7.8** Once a decision has been made to deploy the gas, an urgent and immediate response will be required from the Contractor. The Contractor will be expected to be able to make a delivery within 24 hours of the request 365 days a year unless specifically agreed with the Authority and/or Other Contracting Body. In addition the Contractor must be able to coordinate with and update the Authority and/or Other Contracting Body's representative regularly with regard to expected delivery times.
- 7.9** All cylinders and equipment that cross the "clean and dirty line" in an outbreak will need to be licensed onto the AP and will be subject to strict cleansing and disinfecting procedures before being released back to the Contractor.
- This process will generally include the use of high pressure washers to remove any organic material followed by the application of an approved disinfectant.
 - It is the Contractor's responsibility to verify if any of these products may have a deleterious effect on the cylinder/connections.
 - The Authority will issue a certificate of cleansing and disinfection to the Contractor to confirm equipment has met Authority standards and has been released from restrictions.
 - The Authority and/or Other Contracting Body accepts no liability for damage claims arising from C&D operations.
- 7.10** Upon notification, the Contractor shall also collect the empty bottles within the 48-hour notice. Any additional costs arising due to the Contractor not being able to collect within the 48 hour notice shall be met by the Contractor.
- 7.11** Due to the nature of the requirement it is not possible to estimate or provide details of the quantities of gas required. The Authority and/or Other Contracting Body will review this on a case-by-case basis, and it will depend on the number of birds and species involved. As a result, specific quantity requirements will be notified as soon as the situation has been assessed.

8 MAINTENANCE OF APHA OWNED CGUS – Lot 4

- 8.1** APHA currently has twenty six (26) Containerised Gassing Units (CGUs) for use in the event of an Outbreak or Incident. These mobile CGUs have been designed for the humane culling of poultry by exposure to inert gas mixtures in compliance with European regulation 1099/2009 on the protection of animals at the time of killing.
- 8.2** They are used by APHA for depopulation of premises in the event of Outbreaks or Incidents, and for maintaining staff competence during training events for

poultry culling for disease control operations. The CGUs have been specifically designed for the gassing of birds utilising standard modules in common use in the poultry industry for containing the birds.

- 8.3** The CGU is a solid rectangular gas-tight steel container with a hinged door. There are inlets for gas and outlets from which air is displaced.
- 8.4** When in use it is essential that the oxygen level in the CGU is brought below 5%, or at 2% for water fowl, and is maintained at this level until all birds are dead. Twelve (12) of APHAs CGUs are currently fitted to accommodate smart meters which record cycle times and oxygen levels during these cycles.
- 8.5** Poultry and turkey modules are used alongside the CGU fleet. These modules are plastic or metal mesh boxes with drawers, in which birds are loaded to be moved from the poultry house to the CGU using a telehandler.
- 8.6** APHA is seeking to appoint Contractors able to carry out on-site inspections on one or more units and/or modules on request in order to provide an assessment, report and quote for any maintenance or repairs required along with, following confirmation from the Authority and/or Other Contracting Body, completing the works specified.
- 8.7** Repairs can include but are not limited to work on door seals, internal high pressure piping, seam welding, painting, door hinges, door latches, diffusers, regulators, hoses and associated poultry and turkey modules.
- 8.8** The Contractor must be familiar with the operating principles of CGUs along with being suitably qualified and experienced to carry out both the assessment of the units and in order to complete the necessary repairs.
- 8.9** All APHAs CGUs are currently stored in a secure location at APHA Aston Down, near Stroud.
- 8.10** The Contractor, whilst on site, shall adhere to the Authority and/or Other Contracting body's facilities management provider's health and safety policies and procedures. It is the Contractor's own responsibility to assess and control hazards related to the Services. The Contractor will comply with generic safety standards of any APHA site, in addition to their own, and the Contractor shall ensure that their engineers and other Staff are fully aware of these prior to visits taking place. In the event of any accidents or incidents occurring in the course of contracted Services, the Contractor shall inform APHA immediately and comply with APHA reporting and investigation standards
- 8.11** The Contractor shall comply with all current legislation relating to health and safety of its employees, customers and members of the public, including but

not limited to The Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 and subsequent amendments

- 8.12** On completion of the inspection of each CGU the Contractor must produce a written report for submission to the Authority and/or Other Contracting Body within 5 Working Days, including the recommended maintenance required along with a quote.
- 8.13** The report may include recommendations to improve the units based on any new technology or design improvements.
- 8.14** The Authority and/or Other Contracting Body reserves the right not to award any maintenance work to be completed following a report received from the Contractor.

9 DOCUMENTATION – Lots 1-3

- 9.1** It is essential that detailed auditable records are maintained. The Contractor shall be responsible for maintaining records of all services provided under any Call-Off Contract. All records must be retained for at least six years from date of creation.
- 9.2** The Contractor shall make such records available to the Authority and/or Other Contracting Body at any reasonable time and shall not destroy any records without the prior written approval of the Authority and/or Other Contracting Body.
- 9.3** The Authority and/or Other Contracting Body would prefer that the Contractor keep and supply any records electronically. All records relating to the provision of Services shall be treated as confidential and Contractor shall not release them to any third party without the prior written consent of the Authority and/or Other Contracting Body. The Authority and/or Other Contracting Body shall inform the Contractor of how the information shall be transmitted between parties.
- 9.4** The Contractor shall submit all records and information as the Authority and/or Other Contracting Body may reasonably require, including but not limited to validated time sheets, details and evidence of expenses incurred or invoices paid, and such other documents as are necessary to enable the Contracting Body to verify the information and the amounts referred to in invoices.

10 EQUIPMENT & SUPPLIES – Lots 1-3

- 10.1** The Contractor must provide all the equipment and facilities necessary for the provision of the Services. This will include the provision of facilities to meet all business and legislative requirements under the Framework.
- 10.2** Each Provider acknowledges that it will enter into a Framework based on their own viability assessment relating to, without limitation, the performance of the Services.

- 10.3** The Contractor must maintain all items of equipment in good and serviceable condition at the Contractor's own expense.
- 10.4** The Contractor shall be solely responsible for any loss or damage to equipment. The Authority and/or Other Contracting Body accepts no liability for any loss or damage to any equipment, unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the negligence or default of the Authority and/or Other Contracting Body.
- 10.5** During an Outbreak or Incident if the Contractor is attending an AP then they must adhere to the following:
- a) The Contractor must not take any vehicle, equipment or animal onto the premises where they are performing the Services without the specific permission of the Authority and/or Other Contracting Body's site representative
 - b) Any items brought onto an AP will be subject to inspection and will require cleansing and disinfection, as directed by representatives of the Authority and/or Other Contracting Body, before the items can leave the premises. All equipment must be robust enough to pass through this process.
 - c) Prolonged culling activity may be required throughout daylight hours and during darkness with suitable lighting provided by the Authority and/or Other Contracting Body, therefore sufficient equipment and supplies must be provided to allow for this in order to ensure that the operations are not delayed.
 - d) The Contractor will be expected to provide their own disinfectable rubber boots, disposable paper suits, high-visibility vests and either FFP3 mask and goggles or FFP3 respirator or powered hood along with any other specialist PPE or RPE. This is further detailed in Schedule 5 and Schedule 6.
 - e) Any other necessary biosecurity PPE will be supplied by the Authority and/or Other Contracting Body and may be charged to the Contractor. The Contractor will be instructed by the Authority and/or Other Contracting Body on arrival at the AP, with regards to the arrangements for the disposal and/or return and/or cleansing and disinfection of any PPE
 - f) The Contractor must take directions from the Authority and/or Other Contracting Body's representative on site - including the Case Officer and the APHA welfare veterinarian (where applicable).
 - g) The Contractor must be able to communicate clearly and effectively in English and in Welsh, if providing services in Wales (verbal and written) and

communicate with the rest of their team as appropriate. (This may take the form of a Welsh translator.)

11 SECURITY – Lots 1-3

- 11.1** The Contractor must ensure unrestricted access to any property, vehicles and documentation in connection with the Services by any Authority and/or Other Contracting Body approved representatives.
- 11.2** If applicable, the Contractor must have in place security procedures to ensure that any equipment used, gas or other equipment is stored in a safe and secure manner within the AP.

12 CONTRACT MANAGEMENT/GOVERNANCE – All Lots

- 12.1** The Governance of each Call-Off Contract for each Contractor under the Framework will be via the Authority's appointed Contract Manager, a nominated technical / operational lead for the Incident concerned and via the National Disease Control Centre (NDCC) field operations representatives if required.
- 12.2** The Contractor will be required to respond to an annual survey of capability and capacity requested by the Authority.
- 12.3** In the event of any issues or failure with the delivery of the Services the Contractor must cooperate with any investigation into the cause.
- 12.4** Performance Management of the Services delivered further to the Framework will be as detailed in Schedule 4 to this ITT.

13 WELSH LANGUAGE STANDARDS (Only applicable to Services provided in Wales) – Lots 1-3

- 13.1** The Welsh Government is committed to the principle of treating the Welsh and English Languages on a basis of equality. The Welsh Language (Wales) Measure 2011 (the "Measure") makes provision for the specification of standards of conduct in relation to the Welsh language. The current standards are specified in the Welsh Language Standards (No. 1) Regulations 2015. The Measure also provides that the Welsh Language Commissioner may by notice require certain public bodies to comply with some or all of the standards specified.
- 13.2** The Welsh Language Commissioner has issued a compliance notice on the Welsh Ministers specifying which of the standards currently apply to any activity or service provided by or on behalf of the Welsh Ministers. A copy of the latest version of the compliance notice is available at:

<http://www.comisiynyddygydraeg.cymru/english/Pages/Home.aspx>

13.3 The Contractor (s) appointed to deliver Services under this Framework Agreement may be providing the services on behalf of the Welsh Ministers and must therefore comply with the relevant service delivery standards listed in the compliance notices issued to the Welsh Ministers from time to time.

13.4 The service delivery standards which currently apply to the Services are listed below. The Authority will notify the Contractor of any changes to the service delivery standards with which the Services must comply.

13.5 The Contractor will be required to report against compliance with the standards in the same way as for other duties and requirements under the Contract.

13.6 The relevant standards from the Welsh Language Standards Regulations 2015, in relation to the Framework Agreement are the following:

1,2,3,4,5,6,7,8,9,10,12,13,14,15,16,17,18,20,21,22,24,24a,26,26a,27,27a,27d, 29,29a,30,31,32,33,34,35,36,37,38,40,47,48,49,50,50a,50b,51,52,55,56,57,58, 59,60,61,62,63,64,67,68,69,70,71,72,72a,74,75,76,77,77a,79,80,81,82,83,85,87.

A copy of these standards are available via:
http://www.legislation.gov.uk/wsi/2015/996/pdfs/wsi_20150996_mi.pdf

13.7 Any communications or marketing services provided as part of this Framework must be provided in accordance with the Welsh Government's Guidance on the Use of the Welsh Language in Welsh Government communication and marketing work.

This guidance is available on the Welsh Government website:
https://chcymru.org.uk/uploads/events_attachments/Guidance_for_the_use_of_the_Welsh_Language_in_Welsh_Government_communication_and_marketing_work.pdf

14 SUB-CONTRACTING – All Lots

14.1 If the Contractor proposes using sub-contractors to fulfil Orders received from the Authority and/or Other Contracting Body, it shall only allocate to a sub-contractor with whom it has a signed sub-contractual agreement on the same or similar terms as the Contract.

14.2 The Contractor shall ensure that their sub-contractors adhere to all Specification of Requirements.

14.3 The Contractor shall ensure that their sub-contracting arrangements contain robust and adequate systems for managing risk and include processes to facilitate the handling of complaints by any third parties.

14.4 An escalation process to the Authority and/or Other Contracting Body shall allow any sub-contractor, end user or other contractor to directly contact the Authority and/or Other Contracting Body without fear or favour should any substantive complaint not be adequately dealt with by the Contractor.

14.5 If the Authority and/or Other Contracting Body is requested to hear a complaint by a sub-contractor, end user or other Contractor, the Contractor shall co-operate fully with the Authority and/or Other Contracting Body, including with any requests for further information. The Authority and/or Other Contracting Body's decision in respect of a complaint shall be final.

15 INVOICES – All Lots

15.1 The Contractor shall ensure that all invoices are clear, accurate, and submitted within ten (10) calendar days from the date of the completed Order.

15.2 The Contractor will be required to submit itemised invoices, separated out by each individual Lot (where appropriate). These must include the purchase order number, County Parish Holding (CPH) number if applicable and any other required information as provided by the Authority and/or Other Contracting Body in the Order Form.

15.3 The Contractor must ensure that all invoices are submitted to the Authority and/or Contracting Body within the required timescale as detailed in paragraph 15.1 including any Orders completed by the Contractor directly or those completed by its sub-contractors.

Schedule 2 - Call-Off Contract and Award Methodology

The call off procedure will consist of two approaches:

1 Outbreak: Target deployment within six (6) to twenty-four (24) hours.

- 1.1 Outbreak is defined by any suspected or confirmed Animal disease case OR any situation that the Authority and/or Other Contracting Body determines is urgent in its nature.
- 1.2 A Request for Quote (RFQ) will be issued via email to all Contractors on the relevant framework Lots, and followed up by phone call in cases of extreme urgency, requesting an acknowledgement to express interest within 6 hours of the time of the email followed by a full RFQ response within 24 hours.
- 1.3 The Contractor quoting the lowest rates for the Services will be awarded the Order.
- 1.4 Contractor will be informed of the decision via email (no standstill period required);
- 1.5 An Order form will be issued to the winning bidder and recorded on the e-tendering system.
- 1.6 When an order is not placed (usually because the animal disease is not confirmed and no action is required) the Authority and/or Other Contracting Body may determine that an Engagement Fee is paid to the Contractor (as tendered) at framework appointment stage. This would be in situations when the Contractor has been asked by the Authority and/or Other Contracting Body (at the RFQ stage) to offer specialist advice about the set-up of Services.

Outbreak Direct Award Procedure

- 1.7 In circumstances of extreme urgency during an Outbreak or Incident, as determined by the Authority and/or Other Contracting Body, a Call-Off may be directly awarded on the basis of the Contractor who has the lowest framework rates (as a sum of all rates across the required services).
- 1.8 The Contractor will be asked to confirm acceptance of the direct award and provide their rates for the services required.
- 1.9 If the direct award Contractor does not respond within 3 hours of the Order Form being issued, then the next ranked supplier will be approached.
- 1.10 When an order is not placed (usually because the animal disease is not confirmed and no action is required) the Authority and/or Other Contracting Body may determine that an Engagement Fee is paid to the Contractor (as tendered) at framework appointment stage. This would be in situations when the Contractor has been asked by the Authority and/or Other Contracting Body (at the RFQ stage) to offer specialist advice about the set-up of Services.

Additional Requirements Procedure

- 1.11 Where an additional response is required at another AP whilst a Contractor is still responding to the initial call-off requirement:
- the Authority and/or Other Contracting Body may direct award the additional services to the Contractor currently responding to ensure continuity of service and an expedited response.
 - Depending on location and urgency of the additional requirement, the Authority and/or Other Contracting Body may issue a new Call-Off as per the above procedure.

2 BAU Call off Procedure

- 2.1 A Request for Quote (RFQ) will be issued via email to all Contractors on the relevant Framework Lots, for a minimum 10 day tender period.
- 2.2 The Contractor quoting the lowest rates for the Services will be awarded the Order.
- 2.3 Contractor will be informed of the decision via email.
- 2.4 An Order Form will be issued to the winning bidder through Bravo for electronic acceptance.
- 2.5 Maintenance of APHA owned CGUs (Lot 4) Only: After inspections have been carried out, the Contractor will supply a written quote for any maintenance/repairs/upgrades to the CGUs.

Schedule 3 - APHA Advice on Personal Protective Equipment (PPE) and Respiratory Protective Equipment (RPE)

1. The Contractor must supply the minimum equipment requirements, as listed below. The Contractor is required to ensure that the equipment is available in sufficient quantities, making certain that all items are within their shelf life.

ITEM	NOTES
Waterproof jacket and trousers and hi-visibility vest	Suitable for cleansing and disinfecting.
Wellington boots	Suitable for cleansing and disinfecting.
Disposable boiler suit (s) with hoods and disposable gloves	Disposable boiler suits should not be re-used after a farm visit. (non-disposable boiler suits or lab coat should not be used unless authorised)
Respiratory protection [minimum FFP3 disposable masks].	Appropriate to the risk faced and also best fit. APHA may provide specialist RPE in an Outbreak or Incident.

2. In addition to the minimum equipment requirements, Contractors may find the following additional items useful in their delivery of the Service.

ITEM	NOTES
Disinfectant (England, Scotland and Wales) Disinfectant (Northern Ireland) http://www.dardni.gov.uk/approved-disinfectants-14-april-2014.pdf	Approved disinfectant suitable for the disease situation at the premises, used according to manufacturers guidance and in compliance with the relevant disease control order. Suitable for use on entry, during and leaving premises. Must be stored, carried and used in accordance with Health and Safety requirements.
Bucket, brush, hoof pick, sponge for PPE	Suitable for cleansing and disinfecting.

The Authority and/or Other Contracting Body may provide other necessary PPE, where this is the case it will be confirmed at the time of the call off and may be charged for.

Legislative Requirements

1. The [PPE at Work Regulations 1992](#) came into force on 1 January 1993, and cover all equipment (including clothing affording protection against the weather) intended to be used for protection against any risks to Health and Safety (H&S). The main requirements of the PPE Regulations are very similar for all types of PPE and can be summarised as follows:

- PPE is to be supplied and used at work to minimise safety risks that cannot be adequately controlled in other ways;
- as the effectiveness of PPE can be easily compromised, e.g. by not being worn properly, it should always be considered as the last resort and only used where other precautions cannot adequately reduce the risk of injury;
- where PPE is the only effective means of controlling the risk of injury or ill health then managers must ensure that it is available for use at work and no charge can be made to staff;
- PPE must be suitable and sufficient for the risks involved and the conditions in the place where exposure to the risk may occur. It must prevent or adequately control the risk involved without increasing the overall level of risk;
- it must fit the wearer and be easily adjustable so that it does. When ordering PPE for a number of staff individual characteristics may have to be taken into account. It must also be compatible with any other type of protective equipment that may be worn at the same time;
- account must be taken of the demands it places on the wearer e.g. the length of time the PPE needs to be worn, the physical effort required to do the job and the requirements for visibility and communication;
- except for items which are very expensive and used infrequently it should be issued or readily available on an individual basis and staff to whom it is issued made responsible for its maintenance.

APHA decisions on PPE/RPE

2. The Safety, Health and Wellbeing (SHaW) Team conduct Risk Assessments (RAs) and Control of Substances Hazardous to Health (COSHH) assessments on all activities and substances used or encountered in APHA respectively. These are documented and conclude the level of risks associated with an activity/substance. They also advise on what PPE or RPE must be worn. The items themselves and safety standard in particular must be complied with and it must be noted that local variations are not permitted. All staff are reminded that non-compliance with the use of mandatory RA/COSHH requirements will constitute a breach of the Health and Safety at Work Act and thus they would be breaking both our own safety policies and ultimately, the law.
3. While disposable face masks are common and meet the minimum requirements, it should be noted that a review of PPE/RPE concluded that FFP3 full face masks and powered hoods would be issued to all APHA staff involved in responding to zoonotic respiratory risks such as Avian Influenza (AI). All such full face items are legally subject to checks at appropriate frequency. All new field staff must undergo an APHA approved fit test on entry to APHA and then every three years to confirm what form of respiratory protection provides them best protection and which they must have available in case of such risks. Since 2017 APHA also requires face fit testing for disposable FFP3 masks and maintains stores of suitable types.

Training

4. Training in the use of RPE will be given when new items are introduced. The user will be aware of why PPE is needed, when to use, repair or replace it and its limitations. It is important that the users wear it consistently and correctly at all the times when exposed to the risks identified in the RA and COSHH assessments. Supervisors should ensure that there are no exemptions, e.g. for jobs which may take only a few minutes, and should make regular checks to ensure PPE is being consistently and correctly used.

Maintenance

5. PPE/RPE must be well looked after and properly accommodated when not in use. Non disposable items must be kept clean and in good repair, and any maintenance schedules specified by the manufacturer or APHA on durable items, including recommended replacement periods and shelf-life, must be followed.

European Standards for PPE/RPE

6. Since July 1995 manufacturers and Contractors must ensure that all PPE they supply is marked to show that it complies with the appropriate European Standard wherever these standards are applicable. H&S will include the requisite standards of PPE/RPE in their assessed recommendations where applicable. Existing PPE, including that meeting British Standards (BS) can continue to be used provided it still offers adequate protection. A quick guide to the differences is as follows:
 - the CE mark - signifies that PPE is approved and satisfies certain basic safety requirements, as tested and certified by an independent body;
 - the EN number - indicates the European Standard under which approval has been given; similar to the BS and in many cases supplements or replaces the BS number. EN standards apply to a wide range (but not all) of PPE/RPE and, are particularly important on RPE;
 - the Protection Factor - probably the most important marking on PPE/RPE is that which indicates the degree, type or level of protection offered by a piece of equipment; usually a combination of letters and number.

Schedule 4 - Pricing

1 CONTRACTOR RATES

- 1.1. Framework pricing is taken from the values tendered and shall not be exceeded in any call-off. The Framework pricing determines rankings as set out in the call-off selection methodology.
- 1.2. The Contractor may propose to amend their pricing on the anniversary of each year of the Framework commencement date. If the Authority agrees to the amended pricing, changes will be applied and confirmed as per the Framework variation process.
- 1.3. An overview of the different applicable rates for each Lot are detailed in Table One with further detail on each rate stated in the sections below.

Table One: Rates by Framework Agreement Lot

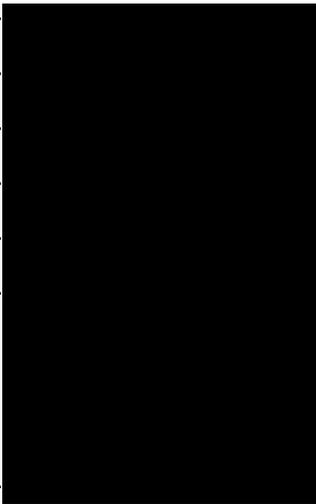
	Lot 1	Lot 2	Lot 3	Lot 4
Fixed set up charge	✓			
Headage Rate	✓			
Hourly Rate per Catcher	✓	✓		
Quarantine Fee	✓	✓		
Engagement Fee	✓			
Weekly hire Rate (per cylinder)			✓	
Weekly hire Rate (per bank)			✓	
Daily hire Rate (per cylinder)			✓	
Daily hire Rate (per bank)			✓	
Delivery Charge			✓	
Inspection Fee (per CGU)				✓

- 1.4. The **Fixed Set-up Charge** is the price charged per set-up, on commencement of delivery of the Service.
- 1.5. The **Headage Rate** is the price charged per bird processed.
- 1.6. The **Hourly Rate** is the price charged per hour, per catcher, between 06:00 to 20:00, Monday to Sunday. The Hourly Rate will be chargeable in increments of fifteen (15) minutes.
- 1.7. The **Quarantine Fee** is the price charged per person per 24-hour period (including weekends and bank holidays) where the required quarantine period prevents Staff from performing other usual work/tasks relating to their employment. Payment is subject to the provision of suitable evidence by the Contractor to confirm the impact on the usual Staff duties and agreement by the Authority and/or Other Contracting Body. The Quarantine fee should not

exceed ten (10) times the hourly rate used by the Contractor to calculate the Service provision.

- 1.8 An **Engagement Fee** may be payable should the Authority and/or Other Contracting Body require additional information, consultancy or advice from the Contractor at the point of requesting a quote or confirmation of the availability of service, in particular in complex cases where advice on the approach is required. This is to provide some recompense for the effort required to respond in usually short timescales and RFQs where a call off is not progressed. An Engagement Fee is a fixed rate set by the Authority will not usually be payable in cases where only confirmation of service availability and quotes are requested. In all RFQs the Authority and/or Other Contracting Body will specify whether an Engagement Fee is payable, or not. Where a Call-Off is issued following an RFQ the Engagement Fee will not be payable to the successful supplier.
- 1.9 The **Weekly Hire Rate** is the price charged per cylinder or per bank of cylinders of Argon/Carbon Dioxide gas for a seven (7) day period.
- 1.10 The **Daily Hire Rate** is the price charged per cylinder or per bank of cylinders of Argon/Carbon Dioxide gas for a period of twenty-four (24) hours.
- 1.11 The **Delivery Charge** is the price charged per delivery in GB. The Contractor will not be permitted to charge a mileage rate in addition to the Delivery Charge.
- 1.12 All prices must include all of the direct delivery costs including any equipment, travel and subsistence and any other additional costs.
- 1.13 The **Inspection Fee** is the price charged per CGU inspected including a report on any maintenance works required. This fee does not include the cost of any maintenance, which should be included as a quote within the report, and be consistent with the charging mechanism set out in Appendix X [for insertion once awarded]
- 1.14 Prices are in £ Sterling (GBP) and exclusive of VAT.

Fixed set up charge	
Headage Rate	
Hourly Rate per Catcher	
Quarantine Fee	
Engagement Fee	
Weekly hire Rate (per cylinder)	

Weekly hire Rate (per bank)	
Daily hire Rate (per cylinder)	
Daily hire Rate (per bank)	
Delivery Charge	
Inspection Fee (per CGU)	
Maintenance Costs	

SCHEDULE 5 - CALL-OFF TERMS AND CONDITIONS

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PARTIES

- (1) THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS at 17 Smith Square, London, SW1P 3JR (Authority).

- (2) [REDACTED]

Background

- (A) The Authority placed a contract notice 2020/S 153-376000 on 10/08/2020 in the Official Journal of the European Union seeking expressions of interest from potential Contractors for the provision of Services (divided into Lots) to Contracting Bodies under a framework agreement.

- (B) The Authority invited potential Contractors (including the Contractor) on 05/08/2020 to tender for the provision of Poultry Culling Services.

- (C) On the basis of the Contractor's Tender, the Authority selected the Contractor to enter a framework agreement to provide services to Contracting Bodies who will place Orders in accordance with the Framework Agreement.

- (D) The Framework Agreement sets out the procedure for ordering Services, the main terms and conditions for the provision of Services and the obligations of the Contractor under the Framework Agreement.

- (E) The Customer is a Contracting Body, as specified in the OJEU Notice. It has selected the Contractor to provide the Services and the Contractor is willing and able to provide the Services in accordance with the terms and conditions of this Contract.

- (F) Execution of the Contract is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract is formed on the date on which both Parties communicate acceptance of its terms on the Authority's electronic contract management system ("Bravo").

GENERAL PROVISIONS

1. DEFINITIONS

In the Contract, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

APHA: means the Animal and Plant Health Agency.

Approval: the prior written approval of the Customer.

Auditor: the National Audit Office or an auditor appointed by the Customer as the context requires.

Authorised Representative: the persons respectively designated as such by the Customer and the Contractor in the Order Form.

Authority: The Department for Environment, Food and Rural Affairs, being the contracting authority that established the Framework Agreement.

Confidential Information: means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which would or would be likely to prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights, know-how of either Party and all personal data and sensitive data within the meaning of the DPA.

Call-off Contract or Contract: means this legally binding Contract between the Authority and the Contractor for the provision of the Services (as may be amended pursuant to clause 35.2).

Contract Period: the period from the Service Commencement Date to:

- (a) the date of expiry set out in clause 3;
- (b) following an extension pursuant to clause 4, the date of expiry of the extended period; or
- (c) such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Contract.

Contract Price: the price (exclusive of any applicable VAT), payable to the Contractor by the Customer for the full and proper performance by the Contractor of its obligations under the Contract.

Contracting Authority: any Contracting Authority as defined in regulation 2 of the Public Contracts Regulations 2015 (*SI 2015/102*) other than the Customer.

Contracting Body: a Contracting Authority identified in the contract notice as a potential purchaser of Services under the Framework Agreement.

Controller: means that given in GDPR

Crown: the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the Welsh Government), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf.

Data Protection Legislation: means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy.

Data Protection Officer has the meaning given in the GDPR.

Data Subject: has the meaning given in the GDPR.

Data Subject Request: means a request made by, or on behalf of, a Data Subject in accordance with rights

Default: any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Dispute Resolution Procedure: the dispute resolution procedure in clause 48.

Environmental Information Regulations: the Environmental Information Regulations 2004 (*SI 2004/3391*), together with any guidance and codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

Equipment: the Contractor's equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

Fees Regulations: the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (*SI 2004/3244*).

FOIA: the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time, together with any guidance and codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Force Majeure: any event or occurrence that is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including: fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Contractor's or any Sub-Contractor's organisation; or
- (b) the failure by any Sub-Contractor to perform its obligations under any Sub-Contract.

Framework Agreement: the framework agreement for the provision of Poultry Culling services between the Authority and the Contractor dated 16/11/2020.

GDPR: means the General Data Protection Regulation (Regulation (EU) 2016/679).

Good Industry Practice: standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

Information: has the meaning given under section 84 of the FOIA.

Initial Contract Period: the period set out in clause 3.

Intellectual Property Rights: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the look and feel of any websites, and **Intellectual Property** shall refer to such materials.

Key Personnel: any individual identified in this Call-Off Contract as being key personnel.

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, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Contractor is bound to comply.

Month: calendar month.

Order: the order placed by the Customer to the Contractor in accordance with the Framework Agreement, which sets out the description of the Services to be supplied.

Order Form: the document used to place an Order, referred to by the Authority as the Order form.

Parent Company: any company which is the ultimate Holding Company of the Contractor or any other company of which the ultimate Holding Company of the Contractor is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the Contractor or which is engaged by the same or similar business to the Contractor. The term **Holding Company** shall have the meaning ascribed in section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.

Party: the Contractor or the Customer and Parties shall mean both the Contractor and the Customer.

Personal Data: has the meaning given in the GDPR.

Personal Data Breach: has the meaning given in the GDPR.

Premises: the location where the Services are to be supplied, as set out in the Order Form.

Prohibited Act: the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Customer; or
- (d) defrauding, attempting to defraud or conspiring to defraud the Customer.

Property: the property, other than real property, issued or made available to the Contractor by the Customer in connection with the Contract.

Processor: has the meaning given in the GDPR.

Quality Standards: the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body (and their successor bodies), that a skilled and experienced operator in the same

type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with (as may be further detailed in this Call-off Contract) and any other quality standards set out in the Order Form.

Regulatory Bodies: those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Customer.

Replacement Contractor: any third party service provider appointed by the Customer to supply any services that are substantially the same as or similar to any of the Services and which the Customer receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

Request for Information: shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "request" shall apply).

Service Commencement Date: As stated in the Call-Off Order Form.

Services: the provision of Poultry Culling services to be supplied as specified in this Call-Off Contract and further detailed in the Specification of Requirements.

Staff: all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor's agents, Contractors and Sub-Contractors used in the performance of its obligations under the Contract.

Staff Vetting Procedures: the Customer's procedures and departmental policies for the vetting of personnel for:

- (a) eligibility to work in the UK;
- (b) the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measure including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989;

Specification of Requirements: means a statement of the Authority's Requirements as set out in Schedule 1.

Sub-Contract: any contract between the Contractor and a third party under which the Contractor agrees to source the provision of any of the Services from that third party.

Sub-Contractor: the contractors or service providers that enter into a Sub-Contract with the Contractor.

Tender: the document(s) submitted by the Contractor to the Authority for admission onto the Framework Agreement.

Variation: has the meaning given to it in clause 35.

VAT: value added tax in accordance with the provisions of the Value Added Tax Act 1994.

Working Day: any day other than a Saturday or Sunday or public holiday in England and Wales.

2. INTERPRETATION

The interpretation and construction of the Contract shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (f) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- (g) headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (h) the Schedules form part of the Contract and shall have effect as if set out in full in the body of the Contract and any reference to the Contract shall include the Schedules;
- (i) references in the Contract to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to the Contract so numbered; and
- (j) references in the Contract to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to the Contract so numbered.

3. INITIAL CONTRACT PERIOD

The Contract shall take effect on the Service Commencement Date and shall end at the date set out in the Order Form, unless it is otherwise terminated in accordance with the provisions of the Contract.

4. EXTENSION OF INITIAL CONTRACT PERIOD

The Customer may, by giving written notice to the Contractor not less than 1 Month (before the last day of the Initial Contract Period, extend the Contract for any further period or periods. The provisions of the Contract will apply throughout any such extended period.

5. CONTRACTOR'S STATUS

At all times during the Contract Period the Contractor shall be an independent service provider and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party except as expressly permitted by the terms of the Contract.

6. CUSTOMER'S OBLIGATIONS

Except as otherwise expressly provided, the obligations of the Customer under the Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation on, or in any other way fetter or constrain, the Customer in any other capacity, nor shall the exercise by the Customer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Customer to the Contractor.

7. MISTAKES IN INFORMATION

The Contractor shall be responsible for the accuracy of all drawings, documents and information supplied to the Customer by the Contractor in connection with the supply of the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

SUPPLY OF SERVICES

8. SERVICES

8.1 The Contractor shall supply the Services during the Contract Period in accordance with the Customer's requirements as set out in the Contract in

consideration for the payment of the Contract Price. The Customer may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.

- 8.2 The Contractor acknowledges that it has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Customer before submitting its Tender so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract.
- 8.3 The Contractor shall:
- (a) at all times comply with the Quality Standards, and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body;
 - (b) at all times perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- 8.4 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 8.5 Subject to the Customer providing Approval in accordance with clause 9, timely supply of the Services shall be of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date.

9. PROVISION AND REMOVAL OF EQUIPMENT

- 9.1 Unless otherwise stated in the Order Form, the Contractor shall provide all the Equipment necessary for the supply of the Services.
- 9.2 The Contractor shall not deliver any Equipment nor begin any work on the Premises without obtaining prior written Approval via the Order Form.
- 9.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Customer shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Customer's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.

- 9.4 The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- 9.5 The Contractor shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
- (a) remove from the Premises any Equipment that in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- 9.6 On completion of the Services, the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any Staff.

STAFFING

10. KEY PERSONNEL – NOT USED

11. CONTRACTOR'S STAFF

- 11.1 The Customer may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Premises:
- (a) any member of the Staff; or
 - (b) any person employed or engaged by any member of the Staff,

whose admission or continued presence would, in the reasonable opinion of the Customer, be undesirable.

- 11.2 At the Customer's written request, the Contractor shall provide a list of the names of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Customer may reasonably request.

- 11.3 If the Contractor fails to comply with clause 11.2 within on day of the date of the request then the Customer may exclude Contractor Staff from entry to the Premises. Exercise of the Customer's rights under this clause shall not excuse the Contractor from any attributable failure to perform the Services.
- 11.4 The Contractor's Staff, engaged within the boundaries of the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force and notified to the Contractor from time to time for the conduct of personnel when at or within the boundaries of those Premises.
- 11.5 The Contractor warrants that it has complied with the Staff Vetting Procedures in respect of all Staff employed or engaged by the Contractor at the Service Commencement Date and that it shall not employ or engage any person in the provision of the Services who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out the Services.

PREMISES

12. LICENCE TO OCCUPY PREMISES

- 12.1 Any land or Premises made available from time to time to the Contractor by the Customer in connection with the Contract shall be made available to the Contractor on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- 12.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary to enable it to perform its obligations under the Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Customer may reasonably request.
- 12.3 Should the Contractor require modifications to the Premises, such modifications shall be subject to prior written Approval and shall be carried out by the Customer at the Contractor's expense. The Customer shall undertake modification work approved by the Customer in writing without undue delay.

Ownership of such modifications shall rest with the Customer. Before the end of the Contract Period, the Contractor shall, at the request of the Customer remove any modifications made to the Premises and reinstate or rebuild the Premises in a manner equivalent in size, quality, layout and facilities to the Premises prior to the modifications.

- 12.4 Without prejudice to clause 11.4, the Contractor shall (and shall ensure that its Staff shall) observe and comply with such rules and regulations as may be in force at any time for the use of the Premises notified to it by the Customer, and the Contractor shall pay for the cost of making good any damage caused by the Contractor or its Staff other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- 12.5 The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted under the Contract, the Customer retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.

13. SECURITY OF PREMISES

- 13.1 The Customer shall be responsible for maintaining the security of the Premises and all assets and information used in performance of the Services in accordance with its standard security requirements. The Contractor shall comply with all reasonable security requirements of the Customer while on the Premises and shall ensure that all Staff comply with such requirements.
- 13.2 On request, the Customer shall:
- (a) provide the Contractor copies of its written security procedures; and
 - (b) afford the Contractor an opportunity to inspect its physical security arrangements.

14. PROPERTY

- 14.1 Where the Customer issues Property to the Contractor, such Property shall be and remain the property of the Customer and the Contractor irrevocably licences the Customer and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and at all times the Contractor shall possess the Property as fiduciary agent and bailee of the Customer. The Contractor shall take all reasonable steps to ensure that the title of the Customer to the

Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Customer.

- 14.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Customer otherwise within five Working Days of receipt.
- 14.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without prior Approval.
- 14.4 The Contractor shall ensure the security of all the Property while in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Customer's reasonable security requirements as required from time to time.
- 14.5 The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Customer's Default. The Contractor shall inform the Customer within two Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

15. ENVIRONMENTAL REQUIREMENTS

The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Customer's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

16. HEALTH AND SAFETY

- 16.1 The Contractor shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Customer shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.

- 16.2 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Customer in respect of Staff and other persons working there.
- 16.3 The Contractor shall notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 16.4 The Contractor shall comply with the requirements of the Health and Safety at Work etc Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.
- 16.5 The Contractor shall 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 Customer on request.

PAYMENT AND CONTRACT PRICE

17. CONTRACT PRICE

- 17.1 In consideration of the Contractor's performance of its obligations under the Contract, the Customer shall pay the Contract Price in accordance with clause 18.
- 17.2 The Customer shall, in addition to the Contract Price and following evidence of a valid VAT invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.

18. PAYMENT AND VAT

- 18.1 The Contractor shall ensure that each invoice is submitted in accordance with the payment profile set out in the Specification of Requirements.
- 18.2 The Customer shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Customer has determined that the invoice is valid and undisputed.
- 18.3 Where the Customer fails to comply with *clause 18.2*, the invoice shall be regarded as valid and undisputed 14 days after the date on which it is received by the Customer.

- 18.4 Where the Contractor enters into a Sub-Contract, the Contractor shall include in that Sub-Contract:
- (a) provisions having the same effect as *clause Error! Reference source not found.* to *clause 18.3* of this agreement; and
 - (b) a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as *clause Error! Reference source not found.* to *clause 18.3* of this agreement.

In this *clause 18.4*, "Sub-Contract" means a contract between two or more Contractors, at any stage of remoteness from the Customer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this agreement.

- 18.5 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable.
- 18.6 The Contractor shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this *clause 18.6* shall be paid by the Contractor to the Customer not less than five Working Days before the date on which the tax or other liability is payable by the Customer.
- 18.7 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under *clause 43* for failure to pay undisputed sums of money.

19. RECOVERY OF SUMS DUE

- 19.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Customer in respect of any breach of the Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Customer.
- 19.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

- 19.3 The Contractor shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Contractor.
- 19.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

STATUTORY OBLIGATIONS AND REGULATIONS

20. CONFLICTS OF INTEREST

- 20.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff are placed in a position where (in the reasonable opinion of the Customer), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or Staff and the duties owed to the Customer under the provisions of the Contract.
- 20.2 The Contractor shall promptly notify the Customer (and provide full particulars to the Customer) if any conflict referred to in clause 20.1 above arises or is reasonably foreseeable.
- 20.3 The Customer reserves the right to terminate the Contract immediately by giving notice in writing to the Contractor and/or to take such other steps it deems necessary where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Customer under the provisions of the Contract. The actions of the Customer under this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

21. PREVENTION OF BRIBERY

- 21.1 The Contractor:
- (a) shall not, and shall procure that the Staff and all Sub-Contractor personnel shall not, in connection with this Contract commit a Prohibited Act; and
 - (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Customer, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Customer before execution of this Contract.

- 21.2 The Contractor shall:
- (a) if requested, provide the Customer with any reasonable assistance, at the Customer's reasonable cost, to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
 - (b) within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Customer in writing (such certification to be signed by an officer of the Contractor) compliance with this clause 21 by the Contractor and all persons associated with it or other persons who are supplying goods or services in connection with this Contract. The Contractor shall provide such supporting evidence of compliance as the Customer may reasonably request.
- 21.3 The Contractor shall have an anti-bribery policy (which shall be disclosed to the Customer) to prevent any Staff or Sub-Contractors from committing a Prohibited Act and shall enforce it where appropriate.
- 21.4 If any breach of clause 21.1 is suspected or known, the Contractor must notify the Customer immediately.
- 21.5 If the Contractor notifies the Customer that it suspects or knows that there may be a breach of clause 21.1, the Contractor must respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit books, records and any other relevant documents. This obligation shall continue for 6 years following the expiry or termination of this Contract.
- 21.6 The Customer may terminate this Contract by written notice with immediate effect if the Contractor, its Staff or Sub-Contractors (in all cases whether or not acting with the Contractor's knowledge) breaches clause 21.1. In determining whether to exercise the right of termination under this clause 21.6, the Customer shall give all due consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or Contractor not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- (a) with the authority or with the actual knowledge of any one or more of the directors of the Contractor or the Sub-contractor (as the case may be); or
 - (b) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had such knowledge.]

- 21.7 Any notice of termination under clause 21.6 must specify:
- (a) the nature of the Prohibited Act;
 - (b) the identity of the party whom the Customer believes has committed the Prohibited Act; and
 - (c) the date on which this Contract will terminate.

21.8 Despite clause 48, any dispute relating to:

- (a) the interpretation of clause 21; or
- (b) the amount or value of any gift, consideration or commission,

shall be determined by the Customer and its decision shall be final and conclusive.

21.9 Any termination under clause 21 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Customer.

22. DISCRIMINATION

22.1 The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

22.2 The Contractor shall take all reasonable steps to secure the observance of clause 22 by all servants, employees or agents of the Contractor and all Contractors and Sub-contractors employed in the execution of the Contract.

INFORMATION

23. CONFIDENTIALITY

23.1 Subject to clause 23.2, the parties shall keep confidential the Confidential Information of the other Party and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.

23.2 Clause 11.1 shall not apply to any disclosure of information:

- (a) required by any applicable law, provided that clause 26 shall apply to any disclosures required under the FOIA or the Environmental Information Regulations;
- (b) that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this Contract;

- (c) that is reasonably required by the Customer;
- (d) where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 11.1;
- (e) by the Customer of any document to which it is a party and which the parties to this Contract have agreed contains no Confidential Information;
- (f) to enable a determination to be made under clause 48;
- (g) which is already lawfully in the possession of the receiving party, before its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;
- (h) by the Customer to any other department, office or agency of the government, provided that the Customer informs the recipient of any duty of confidence owed in respect of the Confidential Information; and
- (i) by the Customer relating to this Contract and in respect of which the Contractor has given its prior written consent to disclosure.

23.3 On or before the expiry of the Contract, the Contractor shall ensure that all documents and/or computer records in its possession, custody or control which contain Confidential Information or relate to personal information of the Authorities' employees, rate-payers or service users, are delivered up to the Customer or securely destroyed.

24. OFFICIAL SECRETS ACTS 1911 TO 1989

24.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

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

24.2 In the event that the Contractor or its Staff fail to comply with this clause, the Customer reserves the right to terminate the Contract by giving notice in writing to the Contractor.

25. DATA PROTECTION

25.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 5. The only processing that the Contractor is authorised to do is listed in Schedule 5 by the Authority and may not be determined by the Contractor.

- 25.2 The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 25.3 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 25.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- (a) process that Personal Data only in accordance with Schedule 5 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Staff do not process Personal Data except in accordance with this Contract (and in particular Schedule 5);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Contractor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the European Union unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

(i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and

(iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

(e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

25.5 Subject to clause 25.6 the Contractor shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Contract, it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

25.6 The Contractor's obligation to notify under clause E25.5 shall include the provision of further information to the Authority in phases, as details become available.

25.7 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause E25.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Authority following any Data Loss Event;

(e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

25.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

(a) the Authority determines that the processing is not occasional;

(b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

(c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

25.9 The Contractor shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.

25.10 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

25.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:

(a) notify the Authority in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Authority;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and

(d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

25.12 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.

25.13 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard

clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

- 25.14 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 25.15 This clause 25 shall apply during the Contract Period and indefinitely after its expiry.

26. FREEDOM OF INFORMATION

- 26.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs. The Contractor shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and EIRs;
 - (b) transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Customer with a copy of all Information belonging to the Customer requested in the Request For Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - (d) not respond directly to a Request For Information unless authorised in writing to do so by the Customer.
- 26.2 The Contractor acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Contractor. The Customer shall take reasonable steps to notify the Contractor of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Customer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

27. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

- 27.1 The Contractor shall not make any press announcements or publicise the Contract in any way without the Customer's prior written Approval.
- 27.2 The Customer shall be entitled to publicise the Contract in accordance with any legal obligation on the Customer, including any examination of the Contract by the Auditor.
- 27.3 The Contractor shall not do anything, or cause anything to be done, which may damage the reputation of the Customer or bring the Customer into disrepute.

28. INTELLECTUAL PROPERTY RIGHTS

- 28.1 The Contractor shall retain ownership of all Intellectual Property created by the Contractor or any Staff or Sub-Contractor of the Contractor:
- (a) in the course of performing the Services; or
 - (b) exclusively for the purpose of performing the Services.
- 28.2 The Contractor hereby grants, or shall procure the direct grant, to the Customer of a perpetual, royalty free, irrevocable and non-exclusive licence of the Intellectual Property, and shall allow the Customer to use the Intellectual Property for any purpose relating to the exercise of the business or function of the Customer provided in each case that such rights shall not extend to the commercial exploitation of the Intellectual Property. This licence shall, during its term, include the right to sub-licence to a third party (including, for the avoidance of doubt, any replacement Contractor or other third party invited by the Customer to participate in a tendering process for the award of a contract to deliver replacement services).
- 28.3 The Contractor shall indemnify the Customer against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Customer's acts or omissions.

29. RECORDS AND AUDIT ACCESS

- 29.1 The Contractor shall keep and maintain until six years after the end of the Contract Period (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of the Contract

including the Services provided under it, the Contracts entered into with the Customer and the amounts paid by the Customer.

- 29.2 The Contractor shall keep the records and accounts referred to in clause 29.1 above in accordance with good accountancy practice.
- 29.3 The Contractor shall on request afford the Customer, the Customer's representatives and/or the Auditor such access to such records and accounts as may be required by the Customer from time to time.
- 29.4 The Contractor shall provide such records and accounts (together with copies of the Contractor's published accounts) during the Contract Period and for a period of 6 years after the expiry of the Contract Period to the Customer and the Auditor.
- 29.5 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services, except insofar as the Contractor accepts and acknowledges that control over the conduct of audits carried out by the Auditor is outside of the control of the Customer.
- 29.6 Subject to the Customer's rights of confidentiality, the Contractor shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information requested by the Customer within the scope of the audit;
 - (b) reasonable access to sites controlled by the Contractor and to Equipment used in the provision of the Services; and
 - (c) access to Staff.
- 29.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 29, unless the audit reveals a material Default by the Contractor in which case the Contractor shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

30. REPLACEMENT OF CORRUPTED DATA

If, through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Customer in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

31. REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

- 31.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under the Contract, then the Customer shall take reasonable steps to investigate the complaint. The Customer may, in its sole discretion, uphold the complaint, and may, acting reasonably apply the Service Credit regime as set out in the Framework Agreement.
- 31.2 If the Customer is of the reasonable opinion that there has been a material breach of the Contract by the Contractor, then the Customer may, without prejudice to its rights under clause 43, do any of the following:
- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Customer that the Contractor will once more be able to supply all or such part of the Services in accordance with the Contract;
 - (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services; and/or
 - (c) charge the Contractor for and the Contractor shall pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Services by the Customer or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.
- 31.3 If the Contractor fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Customer shall instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within ten Working Days of the Customer's instructions or such other period of time as the Customer may direct.
- 31.4 If the Contractor:
- (a) fails to comply with clause 31.3 above and the failure is materially adverse to the interests of the Customer or prevents the Customer from discharging a statutory duty; or

- (b) persistently fails to comply with clause 31.3 above,

the Customer may terminate the Contract with immediate effect by giving the Contractor notice in writing.

32. RIGHTS AND REMEDIES

The rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

33. TRANSFER AND SUB-CONTRACTING

33.1 The Contractor shall not assign, novate, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.

33.2 Provided that the Customer has given prior written consent, the Contractor shall be entitled to novate the Contract following the novation of the Framework Agreement where:

- (a) the specific change in Contractor was provided for in the procurement process for the award of the Framework Agreement;
- (b) there has been a universal or partial succession into the position of the Contractor, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement.

33.3 The Contractor shall be responsible for the acts and omissions of its Sub-Contractors as though they are its own.

33.4 Where the Customer has consented to the placing of Sub-Contracts, copies of each Sub-Contract shall, at the request of the Customer, be sent by the Contractor to the Customer as soon as reasonably practicable.

33.5 The Customer may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority;
- (b) any other body established by the Crown or under statute to substantially perform any of the functions that had previously been performed by the Customer; or

- (c) any private sector body which substantially performs the functions of the Customer,

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

34. WAIVER

- 34.1 A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 34.2 A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 34.3 A party that waives a right or remedy provided under this Contract or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

35. VARIATION

- 35.1 Subject to the provisions of this clause 35, the Customer may request a variation to the Services ordered provided that such variation does not amount to a material change to the Order. Such a change is hereinafter called a "Variation".
- 35.2 The Customer may request a Variation by completing and sending the Contract Change Notice attached at Schedule 9 (the **CCN**) to the Contractor, giving sufficient information for the Contractor to assess the extent of the Variation and any additional cost that may be incurred. The Contractor shall respond to a request for a Variation within the time limits specified in the CCN. Such time limits shall be reasonable having regard to the nature of the Order.
- 35.3 If the Contractor is unable to provide the Variation to the Services or where the Parties are unable to agree a change to the Contract Price, the Customer may:
 - (a) agree that the Parties continue to perform their obligations under the Contract without the Variation; or
 - (b) terminate the Contract with immediate effect, except where the Contractor has already delivered part or all of the Order in accordance

with the Order Form or where the Contractor can show evidence of substantial work being carried out to fulfil the Order, and in such a case the Parties shall attempt to agree on a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.

35.4 If the Parties agree the Variation and any variation in the Contract Price, the Contractor shall carry out such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.

35.5 Execution of a CNN is made via electronic signature as described in clause F of the Background section of the Contract.

36. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

36.1 Except as expressly provided elsewhere in this Contract, a person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

36.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Contract are not subject to the consent of any other person. No term of this Contract is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Contract.

37. SEVERANCE

37.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Contract.

37.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

LIABILITIES

38. LIABILITY, INDEMNITY AND INSURANCE

38.1 Nothing in the Contract shall be construed to limit or exclude either Party's liability for:

- (a) death or personal injury caused by its negligence;
- (b) Fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) any claim under clause 18.6;
- (e) any claim under clause 40; or
- (f) any claim under the indemnity in clause 28.3.

38.2 Subject to clause 38.3 and clause 38.4, the Contractor shall indemnify and keep indemnified the Customer in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor. The Contractor 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 Customer or by breach by the Customer of its obligations under the Contract.

38.3 Subject always to clause 38.1 and clause 38.4, the liability of either Party for Defaults shall be subject to the following financial limits:

- (a) the aggregate liability of either Party for all Defaults resulting in direct loss of or damage to the property of the other under or in connection with the Contract shall in no event exceed £1 million and

38.4 Subject to clause 38.1, in no event shall either Party be liable to the other for any:

- (a) loss of profits;
- (b) loss of business;

- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); or
- (f) any indirect or consequential loss or damage.

38.5 The Customer may, among other things, recover as a direct loss:

- (a) any additional operational and/or administrative expenses arising from the Contractor's Default;
- (b) any wasted expenditure or charges rendered unnecessary and/or incurred by the Customer arising from the Contractor's Default; and
- (c) the additional cost of any replacement services for the remainder of the Contract Period following termination of the Contract as a result of a Default by the Contractor.

38.6 Nothing in the Contract shall impose any liability on the Customer in respect of any liability incurred by the Contractor to any other person, but this shall not be taken to exclude or limit any liability of the Customer to the Contractor that may arise by virtue of either a breach of the Contract or by negligence on the part of the Customer, or the Customer's employees, servants or agents.

39. INSURANCES

39.1 The Contractor shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover (the **Required Insurances**). The cover shall be in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor.

39.2 The Contractor shall give the Customer, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

39.3 If, for whatever reason, the Contractor fails to give effect to and maintain the Required Insurances, the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

39.4 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.

39.5 The Contractor shall hold and maintain the Required Insurances for a minimum of six years following the expiry or earlier termination of the Contract.

40. TAXATION, NATIONAL INSURANCE AND EMPLOYMENT LIABILITY

The Parties acknowledge and agree that the Contract constitutes a contract for the provision of Services and not a contract of employment. The Contractor shall at all times indemnify the Customer and keep the Customer indemnified in full from and against all claims, proceedings, actions, damages, costs, expenses, liabilities and demands whatsoever and howsoever arising by reason of any circumstances whereby the Customer is alleged or determined to have been assumed or imposed with the liability or responsibility for the Staff (or any of them) as an employer of the Staff and/or any liability or responsibility to HM Revenue or Customs as an employer of the Staff whether during the Contract Period or arising from termination or expiry of the Contract.

41. WARRANTIES AND REPRESENTATIONS

The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its Parent Company) to enter into and perform its obligations under the Contract;
- (b) the Contract is executed by a duly authorised representative of the Contractor;
- (c) in entering the Contract it has not committed any Prohibited Act;
- (d) as at the Service Commencement Date, all information, statements and representations contained in the Tender for the Services are true, accurate and not misleading except as may have been specifically disclosed in writing to the Customer before execution of the Contract and it will advise the Customer of any fact, matter or circumstance of which it may become aware during the Contract Period which would render any such information, statement or representation to be false or misleading;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Contract;

- (f) it is not subject to any contractual obligation, compliance with which is likely to have an adverse affect on its ability to perform its obligations under the Contract;
- (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (h) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (i) the Services shall be provided and carried out by appropriately experienced, qualified and trained Staff with all due skill, care and diligence;

DEFAULT, DISRUPTION AND TERMINATION

42. TERMINATION ON INSOLVENCY AND CHANGE OF CONTROL

- 42.1 Without affecting any other right or remedy available to it, the Customer may terminate this Contract with immediate effect by giving written notice to the Contractor if:
- (a) the Contractor suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** (being a partnership) has any partner to whom any of the foregoing apply;
 - (b) the Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of Contractor with one or more other companies or the solvent reconstruction of the Contractor;
 - (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Contractor (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Contractor with one or more other companies or the solvent reconstruction of the Contractor;

- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Contractor (being a company);
- (e) the holder of a qualifying floating charge over the assets of the Contractor (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor;
- (g) the Contractor (being an individual) is the subject of a bankruptcy petition or order;
- (h) a creditor or encumbrancer of the Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Contractor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 42.1(a) to clause 42.1(h) (inclusive); or
- (j) the Contractor suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

42.2 The Contractor shall notify the Customer immediately if the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 (**Change of Control**). The Customer may terminate the Contract by notice in writing with immediate effect within six Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Customer becomes aware of the Change of Control,

but shall not be permitted to terminate where an Approval was granted before the Change of Control.

43. **TERMINATION ON DEFAULT**

43.1 The Customer may terminate the Contract by giving written notice to the Contractor with immediate effect if the Contractor commits a material breach and if:

- (a) the Contractor has not remedied the material breach to the satisfaction of the Customer within 20 Working Days, or such other period as may

be specified by the Authority, after issue of a written notice specifying the material breach and requesting it to be remedied; or

- (b) the material breach is not, in the opinion of the Customer, capable of remedy.

43.2 For the purposes of clause 43.1, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of this Contract; or
- (b) any of the material obligations set out in this Contract over the term of this Contract.

In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

43.3 The Customer may terminate the Contract by giving written notice to the Contractor with immediate effect if:

- (a) the Contractor repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract;
- (b) if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply;
- (c) any warranty given by the Contractor in clause 41 of this Contract is found to be untrue or misleading.

43.4 If the Customer fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, except that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under clause 19.

44. **TERMINATION FOR CONVENIENCE**

The Customer may terminate this Contract at any time by giving one Months' written notice to the Contractor.

45. CONSEQUENCES OF TERMINATION OR EXPIRY

- 45.1 Where the Customer terminates the Contract under clause 43 and then makes other arrangements for the supply of Services, the Customer may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period. The Customer shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause 43, no further payments shall be payable by the Customer to the Contractor until the Customer has established the final cost of making those other arrangements.
- 45.2 Subject to clause 38, where the Customer terminates the Contract under clause 44, the Customer shall indemnify the Contractor against any reasonable commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Contractor shall reduce its unavoidable costs by any insurance sums available. The Contractor shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under clause 44.
- 45.3 The Customer shall not be liable under clause 45.2 to pay any sum that:
- (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
 - (b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated before the expiry of the Contract Period.
- 45.4 Except as otherwise expressly provided in the Contract:
- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract before termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
 - (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Contractor under clause 17, clause 18, clause 19, clause 20, clause 23, clause 24, clause 25, clause 26, clause 28, clause 29, clause 32, clause 38, clause 39, clause 40, clause 45, clause 47, and clause 52.

46. DISRUPTION

46.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Customer, its employees or any other Contractor employed by the Customer.

46.2 The Contractor shall immediately inform the Customer of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

46.3 In the event of industrial action by the Staff, the Contractor shall seek the Customer's Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under the Contract.

46.4 If the Contractor's proposals referred to in clause 46.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Customer may:

- (a) require the Contractor to provide alternative proposals; or
- (b) undertake the services itself and recover from the Contractor the additional costs incurred in the process.

Subject to clause 46.5, nothing in this clause shall release the Contractor from the proper performance of its obligations under the Contract.

46.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Customer, an appropriate allowance by way of extension of time will be approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

47. RECOVERY ON TERMINATION

47.1 On the termination of the Contract for any reason, the Contractor shall:

- (a) immediately return to the Customer all Confidential Information, Personal Data and Customer's Intellectual Property in its possession or in the possession or under the control of any permitted Contractors or Sub-Contractors, which was obtained or produced in the course of providing the Services;
- (b) immediately deliver to the Customer all Property (including materials, documents, information and access keys) provided to the Contractor

under clause 9. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);

- (c) assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to any Replacement Contractor and/or the completion of any work in progress; and
- (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Customer or the Replacement Contractor to conduct due diligence.

47.2 If the Contractor fails to comply with clause 47.1(a) and clause 47.1(b), the Customer may recover possession thereof and the Contractor grants a licence to the Customer or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted Contractors or Sub-Contractors where any such items may be held.

47.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause 47.1(c) and clause 47.1(d) free of charge. Otherwise, the Customer shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

48. DISPUTE RESOLUTION

48.1 If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this Contract, the parties shall follow the procedure set out in this clause:

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Contract Manager of the Authority and Service Manager of the Contractor shall attempt in good faith to resolve the Dispute;
- (b) if the Contract Manager of The Authority and Service Manager of the Contractor are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Head of Contract Management of the Authority and Director of the Contractor who shall attempt in good faith to resolve it; and
- (c) if the Head of Contract Management of the Authority and Director of the Contractor are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the

mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 20 days after the date of the ADR notice.

- 48.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute under clause 52 which clause shall apply at all times.

49. FORCE MAJEURE

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 8 weeks the party not affected may terminate this Contract by giving 30 days' written notice to the affected party.

50. ENTIRE AGREEMENT

- 50.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 50.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract, provided that nothing in this clause 50 shall operate to exclude any liability for fraud.

- 50.3 In the event of and only to the extent of any conflict between the Order Form, the clauses of the Contract and any document referred to in those clauses, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the clauses of the Contract;
- (b) the Order Form
- (c) the terms of the Framework Agreement, the Schedules to the Framework Agreement and the Order Form
- (d) any other document referred to in the clauses of the Contract; and

(e) the Contractor's Tender.

50.4 This Contract may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

51. NOTICES

51.1 Except as otherwise expressly provided within the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Party sending the communication.

51.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service) or by fax or e-mail. Such letters shall be addressed to the other Party in the manner referred to in clause **Error! Reference source not found.** Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours in the case of fax or e-mail, or sooner where the other Party acknowledges receipt of such letters, fax or e-mail.

51.3 Either Party may change its address for service by serving a notice in accordance with this clause.

52. GOVERNING LAW AND JURISDICTION

52.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

52.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Schedule 6 – Call-Off Order Form

ORDER FORM

FROM

Authority	Secretary of State for Environment, Food and Rural Affairs
Address	Defra Group Commercial Room 401, Foss House 1-2 Peasholme Green York YO1 7PX
Contact Ref:	Phone: Email:
Order Number	
Order Date	

TO

Contractor	
For attention of:	Name: Phone: E-mail:
Address	

1. SERVICES REQUIREMENTS
(1.1) Services [and deliverables] required:
(1.2) Commencement Date:
(1.4) Completion Date:
2. PERFORMANCE OF THE SERVICES [AND DELIVERABLES]
(2.1) Key Personnel of the Contractor to be involved in the Supply of the Services
(2.2) Performance Standards
(2.3) Location(s) at which Services are to be provided:

(2.4) Standards:
(2.5) Contract Monitoring Arrangements

3. PRICE AND PAYMENTS
(3.1) Contract Price payable by the Authority/Contracting Body (excluding VAT, payment profile and method of payment (e.g. Government Procurement Card (GPC) or BACS))
(3.2) Invoicing and Payment

6. Invoicing Requirements

BY SIGNING AND RETURNING THIS ORDER FORM THE CONTRACTOR AGREES to enter a legally binding contract with the Authority to provide to the Authority the Services specified in this Order Form, incorporating the rights and obligations in the Call-Off Contract that are set out in the Framework Agreement.

For and on behalf of the Contractor:-

Name and Title	
Signature	
Date	

For and on behalf of the Authority:-

Name and Title	
----------------	--

Signature	
Date	

FOR USE BY APHA FINANCE TEAM ONLY	
Category:	VAT Code
Cost Centre Code:	Objective:
Account and Sub Account Code:	Project Code:
Requisition Raised By:	Requisition Number:
Purchase Order Number:	Receipt Number:

Categories of Data Subject	Owners of the infected premises (usually farms) and potentially employees at that site.
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	<p>In accordance with clause 13.4(e): at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.</p>

Schedule 8 - Framework Agreement Variation Procedure

1. INTRODUCTION

- 1.1 Schedule 8 details the scope of the variations permitted and the process to be followed where the Authority proposes a variation to the Framework Agreement.
- 1.2 The Authority may propose a variation to the Framework Agreement under Schedule 8 only where the variation does not amount to a material change in the Framework Agreement or the Services.

2. PROCEDURE FOR PROPOSING A VARIATION

- 2.1 Except where paragraph 5 applies, the Authority may propose a variation using the procedure contained in this paragraph 2.
- 2.2 In order to propose a variation, the Authority shall serve each Framework Provider with written notice of the proposal to vary the Framework Agreement (**Schedule 9: Contract Change Notice**).
- 2.3 The Contract Change Notice shall:
 - (a) contain details of the proposed variation providing sufficient information to allow each Framework Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Matrices are necessary; and
 - (b) require each Framework Provider to notify the Authority within 10 days of any proposed changes to the prices set out in its Pricing Matrices.
- 2.4 On receipt of the Contract Change Notice, each Framework Provider has 20 Working Days to respond in writing with any objections to the variation.
- 2.5 Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Framework Provider with a written agreement detailing the variation to be signed and returned by each Framework Provider within 10 days of receipt. Execution of a Variation is made via electronic signature.
- 2.6 On receipt of a signed agreement from each Framework Provider, the Authority shall notify all Framework Providers in writing of the commencement date of the variation.

3. OBJECTIONS TO A VARIATION

In the event that the Authority receives one or more written objections to a variation, the Authority may:

- (a) withdraw the proposed variation; or
- (b) propose an amendment to the variation.

4. CHANGES TO THE PRICING MATRICES

4.1 Where a Framework Provider can demonstrate that a variation would result in a change to the prices set out in its Pricing Matrices, the Authority may require further evidence from the Framework Provider that any additional costs to the Framework Provider will be kept to a minimum.

4.2 The Authority may require the Framework Provider to meet and discuss any proposed changes to the Pricing Matrices that would result from a variation.

4.3 Where a change to a Framework Provider's Pricing Matrices is agreed by the Authority, the Authority shall notify its acceptance of the change to the Framework Provider in writing.

4.4 In the event that the Authority and the Framework Provider cannot agree to the changes to the Pricing Matrices, the Authority may:

- (a) withdraw the variation; or
- (b) propose an amendment to the variation.

5. VARIATIONS THAT ARE NOT PERMITTED

In addition to the provisions contained in paragraph 1.2, the Authority may not propose any variation that:

- (a) may prevent one or more of the Framework Providers from performing its obligations under the Framework Agreement; or
- (b) is in contravention of any Law.

Schedule 9 - Contract Change Notice (CCN)



Department
for Environment
Food & Rural Affairs

[CONTRACT / FRAMEWORK AGREEMENT] CHANGE NOTE

Contract Change Note Number	
Contract Reference Number and Title	
Variation Title	
Number of Pages	

Whereas the [Contractor] and the Authority entered into a [Contract/Framework Agreement] for the provision of [contract title] dated [dd/mm/yyyy] (the "Original Contract/Framework Agreement") and now wish to amend the Original [Contract/Framework Agreement].

It is agreed as follows:

1. With effect from [dd/mm/yyyy] the Original [Contract/Framework Agreement] shall be amended as set out in this Contract/Framework Change Note:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (see Annex A)		
Revised Contract Period		
Change in Contract Manager(s)		
Other Changes		

2. Save as herein amended all other terms and conditions of the Original [Contract/Framework Agreement] shall remain in full force and effect.

Execution of the Contract Change Note is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The revised Contract is formed on the date on which both Parties communicate acceptance of its terms on the Authority's electronic contract management system ("Bravo").