**RM6100 Technology Services 3**

**Framework Schedule 4 Annex 1
Lot 4 Order Form**

**Order Form**

This Order Form is issued in accordance with the provisions of the Technology Services 3 Framework Contract RM6100 dated 16 June 2021 between the Supplier (as defined below) and the Minister for the Cabinet Office (the "**Framework Contract**") and should be used by Buyers conducting a further competition under the Framework Contract.

The Contract, referred to throughout this Order Form, means the contract between the Supplier and the Buyer (as defined below) (entered into pursuant to the terms of the Framework Contract) consisting of this Order Form and the Call Off Terms. The Call Off Terms are substantially the terms set out in Annex 2 to Schedule 4 to the Framework Contract and copies of which are available from the Crown Commercial Service website [<http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm1234>]. The agreed Call Off Terms for the Contract being set out as the Annex 1 to this Order Form.

The Supplier shall provide the Services and/or Goods specified in this Order Form (including any attachments to this Order Form) to the Buyer on and subject to the terms of the Contract for the duration of the Term.

In this Order Form, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) of the Call-Off Terms.

This Order Form shall comprise:

1. This document headed “Order Form”;
2. The following Attachments with reference to the corresponding Schedule in the Call-Off Terms. Attachments to this Order Form either replaces (i) an Annex to a Schedule in the Call-Off Terms or (ii) a Schedule to the Call-Off Terms in its entirety (for example, Attachment 2.1 (Services Description)):

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| **Attachment to the Order Form** | **Schedule to the Call-Off Terms** |
| Attachment 2.1 (Services Description) and supporting Annexes  | See Schedule 2.1 (Services Description) |
| Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables)  | See Schedule 2.2 (Performance Levels) |
| Attachment 2.3 (Environmental Requirements) | See Schedule 2.3 (Standards) |
| Attachment 2.4 (Information Management System) | See Schedule 2.4 (Security Management) |
| Attachment 3 (Buyer Responsibilities) | See Schedule 3 (Buyer Responsibilities) |
| Attachment 4.1 (Supplier Solution) | See Schedule 4.1 (Supplier Solution) |
| Attachment 4.2 (Commercially Sensitive Information) | See Schedule 4.2 (Commercially Sensitive Information) |
| Attachment 4.3 (Key Sub-Contractors) | See Schedule 4.3 (Key Sub-Contractors) |
| Attachment 4.4 (Third Party Contracts) | See Schedule 4.4 (Third Party Contracts) |
| Attachment 5 (Software) | See Schedule 5 (Software) |
| Attachment 6.1 (Outline Implementation Plan) | See Schedule 6.1 (Implementation Plan) |
| Attachment 6.2 (Test Success Criteria) | See Schedule 6.2 (Testing Procedures) |
| Attachment 7.1 (Charges) | See Schedule 7.1 (Charges and Invoicing) |
| Attachment 7.2 (Maximum Payments on Termination) | See Schedule 7.2 (Payments on Termination) |
| Attachment 7.3 (Approved Benchmarkers) | See Schedule 7.3 (Benchmarking) |
| Attachment 7.4 (Financial Distress) | See Schedule 7.5 (Financial Reports and Audit Reports) |
| Attachment 7.6 (Anticipated Savings) | See Schedule 7.6 (Anticipated Savings) |
| Attachment 8.1 (Representation and Structure of Boards) | See Schedule 8.1 (Governance) |
| Attachment 8.4 (Transparency Reports and Records to Upload to Virtual Library) | See Schedule 8.4 (Reports and Records Provision) |
| Attachment 9.1 (Notified Sub-Contractors) | See Schedule 9.1 (Staff Transfer) |
| Attachment 9.2 (Key Personnel) | See Schedule 9.2 (Key Personnel) |
| Attachment 11 (Processing Personal Data) | See Schedule 11 (Processing Personal Data) |

1. Annex 1 – Call-Off Terms and Additional/Alternative Clauses.
2. Annex 2 - HMRC Acceptance Use Policy
3. Annex 3 – Third Party Terms

The Order of Precedence shall be as set out in Clause 1.4 of the Call-Off Terms being:

### the Framework, except Framework Schedule 18 (Tender);

### the Order Form and its Attachments (other than Attachment 4.1 (Supplier Solution) and its Annexes) and Schedule 2.2 (Performance Levels) and its Annexes;

### the Call-Off Terms (including the Schedules and their Annexes) (other than Schedule 2.2 (Performance Levels) and its Annexes which is dealt with above in (b));

### Attachment 4.1 (*Supplier Solution*) and its Annexes (if any); and

### Framework Schedule 18 (Tender).

**Section A**

**General Information**

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| **Contract Details** |
| **Contract Reference:** | SR1119320755 |

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| --- | --- |
| **Contract Title:** | Single Trade Window Technical Delivery Partner |

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| --- | --- |
| **Contract Description:** | As outlined in Further Competition Documents |

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| --- | --- |
| **Contract Anticipated Potential Value:** this should set out the total potential value of the Contract | XXXXXXXXXXXXXXXXXXXXXXXXXX* XXXXXXXXXXXXXXXXXXXXXXXXX
* XXXXXXXXXXXXXXXXXXXXXXXXX
* XXXXXXXXXXXXXXXXXXXXXXXXX
 |

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| **Buyer details** |
| **Buyer organisation name**His Majesty’s Revenues & Customs |

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| --- |
| **Billing address**Your organisation’s billing address - please ensure you include a postcode100 Parliament Street, Westminster, London, SW1A 2BQ |

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| --- |
| **Buyer representative name**The name of your point of contact for this OrderAdam Garside (HMRC Commercial Business Partner) |

|  |
| --- |
| **Buyer representative contact details**Email and telephone contact details for the Buyer’s representative. This must include an email for the purpose of Clause 44.3 of the Call-Off Terms. XXXXXXXXXXXXXXXXXXXXXXXXX (HMRC Commercial Business Partner)XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX(HMRC Senior Commercial Business Partner)XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX |

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| **Buyer Project Reference**Please provide the customer project reference number.SR1119320755 |

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| **Supplier details** |
| **Supplier name**The supplier organisation name, as it appears in the Framework ContractDeloitte LLP |

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| **Supplier address**Supplier’s registered address 1 New Street Square, London, EC4A 3HQ |

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| **Supplier representative name**The name of the Supplier point of contact for this Order. This must include an email for the purpose of Clause 44.3 of the Call-Off Terms.XXXXXXXXXXXXXX |

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| **Supplier representative contact details**Email and telephone contact details of the supplier’s representative XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX AND  XXXXXXXXXXXXXX @deloitte.co.uk XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX @deloitte.co.uk |

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| **Order reference number**A unique number provided by the supplier at the time of quote N/A |

**Section B**

**Part 1 – Framework Lots (for multi-Lots only)**

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| **Framework Lot under which this Order is being placed***Guidance Note: where a buyer is conducting a multi-lot procurement and Lot 4 is one of those (which in that case this Order Form and corresponding Call-Off Terms will apply to all Lot(s) under that procurement, tick below which Lot(s) apply in addition to Lot 4. Where this is not a multi-lot procurement and only Lot 4 applies, this Part 1 does* ***not need*** *to be completed.*  |
| 1. TECHNOLOGY STRATEGY & SERVICES DESIGN
 | ☐ |
| 1. TRANSITION & TRANSFORMATION
 | ☐ |
| 1. OPERATIONAL SERVICES
 |  |
| a: End User Services | ☐ |
| b: Operational Management | ☐ |
| c: Technical Management | ☐ |
| d: Application and Data Management | ☐ |
| 1. MAJOR SERVICES TRANSFORMATION PROGRAMMES
 | ☐ |
| 1. SERVICE INTEGRATION AND MANAGEMENT
 | ☐ |

**Part 2 – Contract Details**

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| **Term**Up to 84 months**Initial Term**36 months (which covers SR1, Core Management, L1 Support and L2 Dev Ops, Licence costs and the discoveries for SR2, SR3, SR4 and SR5.)**Extension Period**Initial optional extension of up to 24 monthsFurther optional extension of up to 12 months (Licenses, Assets and L1 Support and L2 Dev Ops only)Further optional extension of up to 12 months (Licenses, Assets and L1 Support and L2 Dev Ops only) |

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| **Sites for the provision of the Services**The Supplier shall provide the Services from the following Sites**:** **Buyer Premises:** Services Delivered at Buyer premises or remotely**Supplier Premises:**Not Applicable**Third Party Premises:** Not Applicable |

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| **Buyer Assets** Please refer to Attachment 3 (Buyer Responsibilities) |

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| **Insurance** *Guidance Note: if this Contract requires a higher level of insurance cover than the £1m default in Framework Agreement or the Buyer requires any additional insurances please specify the details below.*Third Party Public Liability Insurance - £5 million per occurrence and in the aggregateProfessional Indemnity Insurance - £10 million per occurrence and in the aggregate  |

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| **Goods**Not Applicable |

|  |  |  |  |  |  |  |
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| **Security Management – Option Part A or Part B**

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| --- | --- |
| **Security Management Schedule** | **Tick as applicable** |
| Part A – Security Assurance  | ☐ |
| Part B – Security Accreditation  | X |

The Part selected above shall apply this Contract.  |

**Section C**

**Part 1 – Additional and Alternative Buyer Terms**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Alternative Clauses and Additional Clauses***(see Annex 3 of Framework Schedule 4)**This Annex can be found on the RM6100 CCS webpage. The document is titled RM6100 Alternative and Additional Terms and Conditions Lot 4***Part A – Additional Clauses** The standards and policies outlined below will also apply to Clause 7.1 of Schedule 2.3 (Standards). * *“Government Digital Service Standards (*[*https://www.gov.uk/service-manual/service-standard*](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fservice-manual%2Fservice-standard&data=05|01|ali.hussain4%40hmrc.gov.uk|36f2866497bc435e905d08daaabde661|ac52f73cfd1a4a9a8e7a4a248f3139e1|0|0|638010029823928962|Unknown|TWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D|3000|||&sdata=zNZUm%2F8Yhd0TJa0bZYN3GrgNcahGwIblMf653cm1kOY%3D&reserved=0)

Digital Service Manual (<https://www.gov.uk/service-manual>)HMRC Design Patterns (<https://design.tax.service.gov.uk/hmrc-design-patterns/>)HMRC Acceptable Use Policy (See document titled ‘Order Form – Section C - HMRC Acceptable Use Policy)HMRC IT Test Policy (See document titled ‘Order Form – Section C - HMRC IT Test Policy)HMRC Organisational Test Strategy (See document titled ‘Order Form – Section C - HMRC Organisational Test Strategy)”The following wording will be added as a sub-clause to Clause 8.2 of Schedule 8.2 (Change Control Procedure). *“For the avoidance of doubt, any reprioritisation of items on the Backlog as a result of an Iteration Planning Event and/or an Inspect and Adapt Event which, in each case, does not impact timeline, resource profile, solution components (including licence volumes or costs) shall not constitute a Change Request”*In addition to the provisions of Clause 5 in Schedule 7.1 regarding indexation, where Fees are calculated as a Firm Price, the Parties, acting reasonably at all times, shall discuss how inflationary pressures can be addressed where the Supplier can demonstrate that the prevailing economic conditions have had a material impact on the financial construct of this agreement (in accordance with the Open Book Data requirements in Schedule 7.5), that it has done its best to mitigate the impact of those conditions on this agreement, and/or those conditions are outside of its reasonable control. In these circumstances, the Buyer may revise the Firm Price. Any change to the fees as a result of this shall under no circumstances exceed to the rate of Consumer Prices Index. The Supplier may request this discussion by no later than the third anniversary of the Effective Date.Where selected above the Additional Schedules and/or Clauses set out in document RM6100 Alternative and Additional Terms and Conditions Lot 4 shall be incorporated into this Contract. HMRC Mandatory clauses are incorporated into this Call-off as found at Appendix A to Annex 1 of this order form.The Buyer reserves the right to procure software licenses from alternative sources, either by contracting directly with the proprietary owner(s) of the software or via third-party reseller(s). The Supplier must ensure that any software licenses that it procures on behalf of the Buyer are capable of being assigned and/or novated to the Buyer, or it’s nominated third-party representative, that the Buyer complies *inter alia* with the provisions of Section F of the Call Off Terms and the requirement for the Operational Services to comprise Specially Written Software and/or Project Specific IPR.**Part B - Alternative Clauses***Guidance Note: Tick any applicable boxes below*The following Alternative Clauses will apply:

|  |  |
| --- | --- |
| **Alternative Clauses** | **Tick as applicable** |
| Scots Law | ☐ |
| Northern Ireland Law | ☐ |

Where selected above the Alternative Clauses set out in document RM6100 Alternative and Additional Terms and Conditions Lot 4 shall be incorporated into this Contract.  |
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**Part 2 - Additional Information Required for Additional Clauses Selected in Part 1**

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| **Additional Clause C1 (Collaboration Agreement)**Not ApplicableNot Applicable |

**Section D**

**Contract award**

This Contract is awarded in accordance with the provisions of the Technology Services 3 Framework Contract RM6100.

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| **SIGNATURES** |

**For and on behalf of the Supplier**

|  |  |
| --- | --- |
| Name |  |
| Job role/title |  |
| Signature |  |
| Date |  |

**For and on behalf of the Buyer**

|  |  |
| --- | --- |
| Name |  |
| Job role/title |  |
| Signature |  |
| Date |  |

**Attachments to this Order Form**

*See separate document Lot 4 Order Form Attachments.*

**Annex 1 – Call Off Terms and Additional/Alternative Clauses**

**Appendix A – HMRC Mandatory Clauses**

**AUTHORITY’S MANDATORY TERMS**

1. For the avoidance of doubt, references to ‘the Agreement’ mean the attached Call-Off Contract between the Supplier and the Authority. References to ‘the Authority’ mean ‘the Buyer’ (the Commissioners for Her Majesty’s Revenue and Customs).
2. The Agreement incorporates the Authority’s mandatory terms set out in this Schedule Appendix A.
3. In case of any ambiguity or conflict, the Authority’s mandatory terms in this Schedule Appendix A will supersede any other terms in the Agreement.
4. For the avoidance of doubt, the relevant definitions for the purposes of the defined terms set out in the Authority’s mandatory terms in this Schedule Appendix A are the definitions set out at Clause 1 of this Schedule Appendix A.
5. **Definitions**

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| **“Affiliate”** | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time; |
| **“Authority Data”** | 1. the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
	* + 1. supplied to the Supplier by or on behalf of the Authority; and/or
			2. which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or
2. any Personal Data for which the Authority is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified;
 |
| **“Charges”**  | the charges for the Services as specified in Schedule 7.1 Charges and Invoicing |
| **“Connected Company”** | means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person; |
| **“Control”** | the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly; |
| **“Controller”, “Processor”, “Data Subject”,** | take the meaning given in the UK GDPR;  |
| **“Data Protection Legislation”** | * 1. "the data protection legislation" as defined in section 3(9) of the Data Protection Act 2018; and;
	2. all applicable Law about the processing of personal data and privacy;
 |
| **“Key Subcontractor”** | any Subcontractor:1. which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or
2. with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract;
 |
| **“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 with which the Supplier is bound to comply; |
| **“Personal Data”** | has the meaning given in the UK GDPR;  |
| **“Purchase Order Number”**  | the Authority’s unique number relating to the supply of the Services;   |
| **“Services”**  | the services to be supplied by the Supplier to the Authority under the Agreement, including the provision of any Goods; |
| **“Subcontract”** | any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof; |
| **“Subcontractor”** | any third party with whom:1. the Supplier enters into a Subcontract; or
2. a third party under (a) above enters into a Subcontract,

or the servants or agents of that third party; |
| **“Supplier Personnel”** | all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;  |
| **“Supporting Documentation”** | sufficient information in writing to enable the Authority to reasonably verify the accuracy of any invoice;  |
| **“Tax”** | 1. all forms of tax whether direct or indirect;
2. national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;
3. all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions. levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and
4. any penalty, fine, surcharge, interest, charges or costs relating to any of the above,

in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction; |
| **“Tax Non-Compliance”** | where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where:1. the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause 4.3; and
2. any “Essential Subcontractor” means any Key Subcontractor;
 |
| **“UK GDPR”**  | the UK General Data Protection Regulation, the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679); |
| **“VAT”** | value added tax as provided for in the Value Added Tax Act 1994. |

1. **Payment and Recovery of Sums Due**

## The Supplier shall invoice the Authority as specified in Schedule 7.1 Charges and Invoicing of the Agreement. Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Supplier shall procure a Purchase Order Number from the Authority prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:

### the Supplier does so at its own risk; and

### the Authority shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.

* 1. Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Authority from time to time via the Authority’s electronic transaction system.
	2. If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Authority.  The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.
1. **Warranties**
	1. The Supplier represents and warrants that:
		1. in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;
		2. it has notified the Authority in writing of any Tax Non-Compliance it is involved in; and
		3. 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 Supplier 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 Supplier’s assets or revenue and the Supplier has notified the Authority of any profit warnings issued in respect of the Supplier in the three years prior to the Effective Date.
	2. If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 3.1.1, 3.1.2 and/or 3.1.3 has been breached, is untrue, or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
	3. In the event that the warranty given by the Supplier pursuant to Clause 3.1.2 is materially untrue, the Authority shall be entitled to terminate the Agreement pursuant to the Call-Off clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).
2. **Promoting Tax Compliance**
	1. All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.
	2. To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.
	3. The Supplier shall provide to the Authority the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any agent, supplier or Subcontractor of the Supplier prior to the provision of any material Services under the Agreement by that agent, supplier or Subcontractor. Upon a request by the Authority, the Supplier shall not contract, or will cease to contract, with any agent, supplier or Subcontractor supplying Services under the Agreement.
	4. If, at any point during the Term, there is Tax Non-Compliance, the Supplier shall:
		1. notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
		2. promptly provide to the Authority:
3. details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
4. such other information in relation to the Tax Non-Compliance as the Authority may reasonably require.
	1. The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 4.5 shall be paid in cleared funds by the Supplier to the Authority not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Authority.
	2. Upon the Authority’s request, the Supplier shall provide (promptly or within such other period notified by the Authority) information which demonstrates how the Supplier complies with its Tax obligations.
	3. If the Supplier:
		1. fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with Clauses 4.2, 4.4.1 and/or 4.6 this may be a material breach of the Agreement;
		2. fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Authority that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause 4.3 on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or
		3. fails to provide details of steps being taken and mitigating factors pursuant to Clause 4.4.2 which in the reasonable opinion of the Authority are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Authority to terminate the Agreement pursuant to the Call-Off Clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

* 1. The Authority may internally share any information which it receives under Clauses 4.3 to 4.4 (inclusive) and 4.6, for the purpose of the collection and management of revenue for which the Authority is responsible.
1. **Use of Off-shore Tax Structures**
	1. Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Authority) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Authority under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract (**“Prohibited Transactions”**). Prohibited Transactions shall not include transactions made between the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties’ business.
	2. The Supplier shall notify the Authority in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier shall notify the Authority within a reasonable time to allow the Authority to consider the proposed Prohibited Transaction before it is due to be put in place.
	3. In the event of a Prohibited Transaction being entered into in breach of Clause 5.1 above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Authority and, in order to ensure future compliance with the requirements of Clauses 5.1 and 5.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Authority) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.
	4. Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses 5.2 and 5.3 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).
2. **Data Protection and off-shoring**
	1. The parties agree that the Supplier shall, whether it is the Controller or Processor, in relation to any Personal Data processed in connection with its obligations under the Agreement:
		1. not process or permit to be processed Personal Data outside of the United Kingdom unless the prior explicit written consent of the Authority has been obtained and the following conditions are fulfilled:
	2. the Supplier or any applicable Processor has provided appropriate safeguards in relation to any transfer of the Personal Data (whether in accordance with UK GDPR Article 46 or, where relevant, section 75 of the Data Protection Act 2018) as determined by either the Authority or the Supplier when it is the Controller;
	3. the Data Subject has enforceable rights and effective legal remedies;
	4. the Supplier or any applicable Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is processed (or, if it is not so bound, uses its best endeavours to assist either the Authority or the Supplier when it is the Controller in meeting its obligations); and
	5. the Supplier or any applicable Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
	6. Failure by the Supplier to comply with the obligations set out in Clause 6.1 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).
3. **Commissioners for Revenue and Customs Act 2005 and related Legislation**
	1. The Supplier shall comply with, and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 (‘CRCA’) to maintain the confidentiality of Authority Data. Further, the Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.
	2. The Supplier shall comply with, and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the Supplier’s obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
	3. The Supplier shall regularly (not less than once every six (6) months) remind all Supplier Personnel who will have access to, or are provided with, Authority Data in writing of the obligations upon Supplier Personnel set out in Clause 7.1 above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.
	4. The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data sign (or have previously signed) a Confidentiality Declaration, in the form provided at Annex 2. The Supplier shall provide a copy of each such signed declaration to the Authority upon demand.
	5. In the event that the Supplier or the Supplier Personnel fail to comply with this Clause 7, the Authority reserves the right to terminate the Agreement with immediate effect pursuant to the clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

**Annex 1**

**Excerpt from HMRC’s “Test for Tax Non-Compliance”**

*Condition one (An in-scope entity or person)*

1. There is a person or entity which is either: (“X”)
2. The Economic Operator or Essential Subcontractor (EOS)
3. Part of the same Group of companies of EOS. An entity will be treated as within the same Group of EOS where that entities’ financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts[[1]](#footnote-2)*;
4. Any director, shareholder or other person (P) which exercises control over EOS. ‘Control’ means P can secure, through holding of shares or powers under articles of association or other document that EOS’s affairs are conducted in accordance with P’s wishes.

*Condition two (Arrangements involving evasion, abuse or tax avoidance)*

1. X has been engaged in one or more of the following:
	1. Fraudulent evasion[[2]](#footnote-3);
	2. Conduct caught by the General Anti-Abuse Rule[[3]](#footnote-4);
	3. Conduct caught by the Halifax Abuse principle[[4]](#footnote-5);
	4. Entered into arrangements caught by a DOTAS or VADR scheme[[5]](#footnote-6);
	5. Conduct caught by a recognised ‘anti-avoidance rule’[[6]](#footnote-7) being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not affected for commercial purposes. ‘Targeted Anti-Avoidance Rules’ (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;
	6. Entered into an avoidance scheme identified by HMRC’s published Spotlights list[[7]](#footnote-8);
	7. Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

*Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a published list (Spotlights))*

1. X’s activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:
	1. In respect of (a), either X:
		1. Has accepted the terms of an offer made under a Contractual Disclosure Facility (CDF) pursuant to the Code of Practice 9 (COP9) procedure[[8]](#footnote-9); or,
		2. Has been charged with an offence of fraudulent evasion.
	2. In respect of (b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.
	3. In respect of (b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.
	4. In respect of (f) this condition is satisfied without any further steps being taken.
	5. In respect of (g) the foreign equivalent to each of the corresponding steps set out above in (i) to (iii).

### For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re‑enacted from time to time including any implementing or successor legislation.

**Annex 2 Form**

**CONFIDENTIALITY DECLARATION**

CONTRACT REFERENCE: [for Supplier to insert Contract reference number and contract date] (‘the Agreement’)

DECLARATION:

I solemnly declare that:

1. I am aware that the duty of confidentiality imposed by section 18 of the Commissioners for Revenue and Customs Act 2005 applies to Authority Data (as defined in the Agreement) that has been or will be provided to me in accordance with the Agreement.
2. I understand and acknowledge that under Section 19 of the Commissioners for Revenue and Customs Act 2005 it may be a criminal offence to disclose any Authority Data provided to me.

|  |
| --- |
| SIGNED: |
| FULL NAME: |
| POSITION: |
| COMPANY:  |
| DATE OF SIGNATURE:  |

**Appendix B – Additional/Alternative Clauses**

The Parties acknowledge and agree that notwithstanding anything to the contrary in the Contract that:

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1. **Allowable Assumptions**

Allowable Assumptions will be managed pursuant to Part D (Allowable Assumptions) of Order Form Attachment 7.1 (Charges).

1. **Termination for independence**

In addition to any other rights of termination of the Supplier, the Supplier may terminate the Contract upon written notice to Buyer if the performance of any part of the Services would conflict with Law, professional rules or Supplier’s independence. Supplier will provide as much notice to Buyer as is reasonably possible and will work with Buyer to seek to mitigate any impact on the Services. In the event of a conflict of interest as a result of the Supplier's auditor independence requirements (which cannot be resolved), the Supplier shall comply with its obligations to the extent it is able to without breaching auditor independence or professional rules and the parties shall (i) where permissible under the relevant independence or professional rules seek to agree a Change to allow the continuation of the Services; or (ii) where the auditor independence requirements do not allow the continuation of the Services, Supplier may terminate this Contract pursuant to this Section 3.

1. **Change in law**

A change in law relating to the operation of the Single Trade Window (for example changes to import or export duties, good clearances or border cooperation arrangements), which by its very nature, will impact the Single Trade Window will not be regarded as Changes in Law for the purposes of the Contract and any such changes in law which impact the operation of the platform and/or the provision of the Services will be addressed through the Change Control Procedure.

1. **Benchmarking**

The Supplier and the Buyer will have the opportunity to discuss the appropriate methodology/approach to benchmarking so that any benchmarking exercise is correctly focused on quality out-put per unit cost rather than input cost alone. The Supplier and the Buyer will work together to ensure that (i) any Benchmarking Review undertaken by a Benchmarker is focused in the manner prescribed in the preceding sentence; and (ii) the Benchmarker shall include it as a material consideration during the comparative assessment undertaken pursuant to Paragraph 4.9 of Schedule 7.3.

1. **Security**
2. In order to demonstrate the Supplier’s commitment to information security, the Supplier will provide the Buyer with ISO 27001 and Cyber Essentials Plus certifications upon their annual renewal for the Wider Information Management System (as defined in Schedule 2.4);
3. The Buyer acknowledges and agrees that (i) it shall not be permitted to perform any security testing on the Wider Information Management System; and (ii) the Core Information Management System (as defined in Schedule 2.4) shall be exempt from any ISO27001 requirements or certification; and

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2. **Audit and access**

All Buyer’s rights of audit/access under the Contract are subject to the Supplier’s obligations of confidentiality to its other clients and/or third parties and shall be exercised at Buyer’s expense. Supplier shall, on reasonable notice, permit the Buyer and/or its auditor such access as is reasonably and strictly necessary to conduct the audit, during Supplier’s normal business hours. The Buyer agrees that should any audit(s) of the Supplier’s Key Sub-contractor be required under the Contract, then such audit(s) shall be undertaken by the Buyer (or its audit representative) and not the Supplier.

1. **Exit management charges**

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1. **Individual confidentiality obligations**

The Supplier will procure compliance with any confidentiality obligations by Supplier Personnel and will be responsible for such compliance by Supplier Personnel. XXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXXXXXX X

1. **Security operations centre**

The Supplier is not required to provide its own security operations centre (“SOC”) and will forward logs to the Buyer's (or any other HMG designated) SOC.

1. **AWS One Government Value Agreement (OGVA)**

The Buyer will qualify for and benefit from the AWS OGVA arrangement. Should the Buyer no longer qualify (by reasons of early termination or otherwise), the Supplier will, notwithstanding anything to the contrary in the Contract, be able to recover any associated discounts that maybe repayable to AWS in such circumstances and Buyer shall repay such sums within a reasonable period of Supplier’s request for payment. For the avoidance of doubt, any termination costs will be subject to the maximum caps outlined in Attachment 7.2 (Maximum Payments on Termination.

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1. **Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced (TUPE) transfers**

TUPE does not apply upon the Commencement of the Services and the Supplier (and its Subcontractor) has not included any provision (including, but not limited to, any costing of assuming pensions liabilities) in its Charges or assessed the impact on the timing of the delivery of the Services. In the event that there are employee transfers at the commencement of the Services (including commencement of Optional Services) then Parties will agree the impact (including the level of compensation to be paid to the Supplier and/or its Subcontractors) through the Change Control Procedure and Paragraph 3.2 of Schedule 8.2 (Change Control Procedure) shall not apply to the calculation of compensation to be paid to the Supplier and/or its Subcontractors.

1. **Warranty**

 For the purposes of Clause 5.8 of the Call Off Terms, Specially Written Software together with any Project Specific IPRs will be free from material design and programming errors and perform in all material respects in accordance with the relevant specifications in the Supplier Solution and Documentation for a period of 90 days from delivery. In the event that (i) any material design and programming errors are found in Specially Written Software and/or any Project Specific IPRs; and (ii) Specially Written Software and/or the Project Specific IPRs do not perform in all material respects in accordance with the relevant specifications in the Supplier Solution and Documentation; and Supplier is made aware of such material non-conformance within such 90 day period, the Supplier will resolve such material non-conformance as soon as is reasonably possible (with such resolution going beyond the 90 day period if required to resolve the non-conformance).

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1. **Cloud hosting configurations**

On expiry of the Term or termination of the Contract, the Supplier will make available all configurations that have been developed for the Buyer in connection with cloud hosting, so that such configurations continue to be available, for as long as the Buyer requires, to allow the continued operation of the cloud hosting. Any configurations constitute Supplier Background IPRs.

1. **Tools and assets**

Save where agreed in writing by the Parties, Supplier and/or Sub-contractor owned/licensed Assets, Supplier and/or Sub-contractor owned/licenced tools or contracts will be retained by the Supplier and/or the Sub-contractor during and after the Term and Buyer and/or Replacement Supplier will not have access to or use of any such Assets, tools or contracts. The Supplier will work with the Buyer during the Term to identify those specific Assets, tools or contracts that the Buyer may wish to continue to use post expiry or termination of the Contract so that the Buyer can make appropriate arrangements to secure the right to use the relevant Assets, tools or contracts.

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6. **Data access from outside the UK**

Subject to Buyer Responsibility No.23 in Attachment 3 (Buyer Responsibilities) of the Order Form Attachments, the Buyer consents to data in the STW solution/platform being accessed from outside the UK to enable the provision of support from the technology/ platform/infrastructure providers (e.g. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX) involved in the STW Platform.

1. **OLAs**

 The Parties will work together during mobilisation to agree the details of the OLAs in Attachment 2.2, including but not limited to, when the OLAs commence and how they are measured and tracked during the Term.

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2. **SLA regime**
3. The Parties will, acting reasonably, in good faith and in a collaborative matter discuss the introduction of new appropriate SLAs upon completion of the Strategic Release 1 Alpha Milestone and review the agreed SLAs following each subsequent Strategic Release Alpha Milestone. If any new SLAs are agreed to be included and any changes to existing SLAs, then they will be introduced and managed through the Change Control Procedure to ensure a fair and reasonable outcome for both Parties.
4. For the avoidance of doubt, the Buyer can reject proposed amendments to the SLA’s where they fail to meet the Standards and/or they do not align to the SLA’s of equivalent Buyer contracts.
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1. **Reporting**

Any information required from the Supplier’s Key Sub-contractor pursuant to Paragraph 4.1 of Schedule 7.5 (Financial Reports and Audit Rights) shall be provided to the Buyer directly by the Key Sub-contractor and in no circumstances shall the Key Sub-contractor be obliged to provide such information to the Supplier.

1. **Operational control plane location**

 As Section 12 of Schedule 2.4 (Security) the Supplier will Process Buyer Data only in the UK, except where the Buyer has given its consent in writing to a transfer of the Buyer Data to such other country. The Buyer acknowledges that Third-Party Vendors, as defined in Schedule 2.4 (Security), may need to store their operational data (including platform health metadata, usage and access logs, statistics used to assess service availability and service health) outside the UK to exploit the full functionality and features of the Third-Party Vendor platforms. The STW Platform will be designed and configured or an alternative solution will be agreed between the Parties to ensure that operational data is not stored outside the UK unless written approval is provided by the Buyer

32 **Supplementary information**

 The Parties acknowledge and agree that the Clarification Questions Log has been appended to this document for information purposes only and (i) is not intended to have, nor does have contractual effect; and (ii) is not incorporated into the Contract.

**Annex 2 –** **HMRC Acceptance Use Policy**

*[Action to embed Acceptance Use Policy document]*

**Annex 3 – Third Party Terms**

1. <https://www.iasplus.com/en/standards/ifrs/ifrs10> [↑](#footnote-ref-2)
2. ‘Fraudulent evasion’ means any ‘UK tax evasion offence’ or ‘UK tax evasion facilitation offence’ as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act. [↑](#footnote-ref-3)
3. “General Anti-Abuse Rule” means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any

future legislation introduced into Parliament to counteract tax advantages arising from abusive

arrangements to avoid national insurance contributions [↑](#footnote-ref-4)
4. “Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others [↑](#footnote-ref-5)
5. A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992. [↑](#footnote-ref-6)
6. The full definition of ‘Anti-avoidance rule’ can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly. [↑](#footnote-ref-7)
7. Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currently-in-the-spotlight> [↑](#footnote-ref-8)
8. The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed. [↑](#footnote-ref-9)