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

# Order Form

CALL-OFF REFERENCE: CCVH23A02

THE BUYER: Crown Commercial Service

BUYER ADDRESS **REDACTED TEXT under FOIA Section 40, Personal Information**.

THE SUPPLIER: Enterprise Rent-A-Car UK Limited

SUPPLIER ADDRESS:**REDACTED TEXT under FOIA Section 40, Personal Information**.

REGISTRATION NUMBER: **REDACTED TEXT under FOIA Section 40, Personal Information**.

DUNS NUMBER: **REDACTED TEXT under FOIA Section 40, Personal Information**.

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated **15th December 2023**

It’s issued under the Framework Contract with the reference number **RM6265** for the provision of Vehicle Hire Contract

CALL-OFF LOT:

Lot 1: Hire of Vehicles up to 3.5T

CALL-OFF INCORPORATED TERMS

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

1. This Order Form including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1(Definitions and Interpretation) **RM6265**
3. The following Schedules in equal order of precedence:

* Joint Schedules for **RM6265**
  + Joint Schedule 2 (Variation Form)
  + Joint Schedule 3 (Insurance Requirements)
  + Joint Schedule 4 (Commercially Sensitive Information)
  + Joint Schedule 10 (Rectification Plan)
  + Joint Schedule 11 (Processing Data)
* Call-Off Schedules for **CCVH23A02** 
  + Call-Off Schedule 1 (Transparency Reports)
  + Call-Off Schedule 2 (Staff Transfer)
  + Call-Off Schedule 3 (Continuous Improvement)
  + Call-Off Schedule 5 (Pricing Details)
  + Call-Off Schedule 9 (Security)
  + Call-Off Schedule 14 (Service Levels)
  + Call-Off Schedule 20 (Call-Off Specification)
  + Call-Off Schedule 22 (Vehicle Hire Terms)
  + Call-Off Schedule 24 (Car Share Hire Terms)

1. CCS Core Terms (version 3.0.11)
2. Joint Schedule 5 (Corporate Social Responsibility) **RM6265**
3. Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

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

CALL-OFF SPECIAL TERMS

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

The Core Terms are modified in respect of the Call-Off Contract for all Lots (but are not modified in respect of the Framework Contract).

Special Term 1. Core Terms Clause 3.1.2 does not apply to the Call-Off Contract;

Special Term 2. Core Terms Clause 3.2 does not apply to the Call-Off Contract;

Special Term 3. Core Terms Clause 8.7 does not apply to the Call-Off Contract; Special Term 4. Core Terms Clause 11.4 shall be changed to read:

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

1. **REDACTED TEXT under FOIA Section 43 Commercial Interests**.
2. **REDACTED TEXT under FOIA Section 43 Commercial Interests**.
3. **REDACTED TEXT under FOIA Section 43 Commercial Interests**.

|  |  |
| --- | --- |
| CALL-OFF START DATE: | **18th of December 2023** |
| CALL-OFF EXPIRY DATE: | **17th of December 2024** |
| CALL-OFF EXTENSION PERIOD: | **Two (2) Periods of one (12) months (1+1+1)** |

CALL-OFF DELIVERABLES

See details in Call-Off Schedule 20 (Call-Off Specification)

MAXIMUM LIABILITY

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

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **REDACTED TEXT under FOIA Section 43 Commercial Interests**.

CALL-OFF CHARGES

See details in Call-Off Schedule 5 (Pricing Details)

Call-Off Charges are inclusive of:

* Collision Damage Waiver.
* Third-Party Liability Protection.

Subject to the terms of the Agreement.

All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in Framework Schedule 3 (Framework Prices)

REIMBURSABLE EXPENSES

None

PAYMENT METHOD

BACs

BUYER’S INVOICE ADDRESS:

Crown Commercial Service Finance Department

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

BUYER’S AUTHORISED REPRESENTATIVE

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

BUYER’S ENVIRONMENTAL POLICY

[https://www.crowncommercial.gov.uk/information-for-buyers-and-suppliers/makingresponsible-decisions/sustainability**/**](https://www.crowncommercial.gov.uk/information-for-buyers-and-suppliers/making-responsible-decisions/sustainability/)

BUYER’S SECURITY POLICY

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

SUPPLIER’S AUTHORISED REPRESENTATIVE

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

SUPPLIER’S CONTRACT MANAGER

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

**REDACTED TEXT under FOIA Section 40, Personal Information**

PROGRESS REPORT FREQUENCY

Management information reports electronically on a monthly basis

PROGRESS MEETING FREQUENCY

Quarterly on the first Working Day of each quarter

KEY STAFF

N/A

KEY SUBCONTRACTOR

Not Applicable

COMMERCIALLY SENSITIVE INFORMATION

Joint Schedule 4 (Commercially Sensitive Information)

|  |  |  |
| --- | --- | --- |
| **No.** | **Item(s)** | **Duration of Confidentiality** |
| 1 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 2 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 3 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 4 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |

SERVICE CREDITS

Not Applicable

ADDITIONAL INSURANCES

Not applicable

GUARANTEE

Not applicable

SOCIAL VALUE COMMITMENT

The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Tender)

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| **For and on behalf of the Supplier:** | | **For and on behalf of the Buyer:** | |
| Signature: | **REDACTED TEXT under FOIA Section 40, Personal Information** | Signature: | **REDACTED TEXT under FOIA Section 40, Personal Information** |
| Name: | **REDACTED TEXT under FOIA Section 40, Personal Information** | Name: | **REDACTED TEXT under FOIA Section 40, Personal Information** |
| Role: | **REDACTED TEXT under FOIA Section 40, Personal Information** | Role: | **REDACTED TEXT under FOIA Section 40, Personal Information** |
| Date: | 15-12-23 | 23:59 PST | Date: |  |

# Call-Off Schedule 1 (Transparency Reports)

1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1

[(https://www.gov.uk/government/publications/procurement-policy-note-0117update-to-transparency-principles)](https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.

1.2 Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.

1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.

1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

# Annex A: List of Transparency Reports

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Title** | | | | |  | | **Content** | | | **Format** | | | **Frequency** | | |
|  | [Performance] | | |  |  | |  | | |  | | |  | | |
|  | | |  | [ ] |  |  | [ ] |  |  | [ ] |  |
|  | [Call-Off Contract | | | |  | |  | | |  | | |  | | |
| Charges] |  | | |  | [ ] |  |  | [ ] |  |  | [ ] |  |
|  | [Key Subcontract | | | | ors] |  |  | | |  | | |  | | |
|  | | | |  |  | [ ] |  |  | [ ] |  |  | [ ] |  |
|  | [Technical] | |  | |  | |  | | |  | | |  | | |
|  | |  | [ ] |  |  | [ ] |  |  | [ ] |  |
|  | [Performance | | |  |  | |  | | |  | | |  | | |
| management] | | |  | [ ] |  |  | [ ] |  |  | [ ] |  |

# Call-Off Schedule 2 (Staff Transfer)

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| --- | --- |
| [**Guidance note: Buyers will need to take their own legal advice on this Schedule** | |
| **2 and, in particular, on Part D (Pensions).** |  |

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

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

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

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

If either Part A and/or Part B apply, then consider whether Part D (Pensions) shall apply and the Buyer shall indicate on the Order Form which Annex shall apply (either D1 (CSPS), D2 (NHSPS), D3 (LGPS) or D4 (Other Schemes)). Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

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

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

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

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

## 1. Definitions

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

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| **“Acquired Rights**  **Directive”** | 1 the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or reenacted from time to time;  2 |
| **"Employee**  **Liability"** | **3** all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:  a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; |
|  | b) unfair, wrongful or constructive dismissal compensation; |
|  | c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay; |
|  | d) compensation for less favourable treatment of part-time workers or fixed term employees; |
|  | e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions; |

|  |  |
| --- | --- |
|  | f) employment claims whether in tort, contract or statute or otherwise; |
|  | g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation; |
| **"Former**  **Supplier"** | a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor); |
| **"New Fair Deal"** | the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for Staff Pensions: Staff Transfer from Central Government*" issued in October 2013 including:   1. any amendments to that document immediately prior to the Relevant Transfer Date; and 2. any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer; |
| **“Old Fair Deal”** | HM Treasury Guidance “*Staff Transfers from Central Government: A Fair Deal for Staff Pensions*” issued in June 1999 including the supplementary guidance “*Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues*” issued in June 2004; |
| **"Partial Termination"** | the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract); |
| **"Relevant**  **Transfer"** | a transfer of employment to which the Employment Regulations applies; |

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| **"Relevant**  **Transfer Date"** | in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date; |
| **"Staffing**  **Information"** | in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:  (a) their ages, dates of commencement of employment or engagement, gender and place of work; |
|  | (b) details of whether they are employed, selfemployed contractors or consultants, agency workers or otherwise; |
|  | (c) the identity of the employer or relevant contracting Party; |
|  | (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; |
|  | (e) their wages, salaries, bonuses and profit sharing arrangements as applicable; |
|  | (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them; |
|  | (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims); |
|  | (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence; |
|  | (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and |
|  | (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations; |
| **"Supplier's Final**  **Supplier**  **Personnel List"** | a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date; |
| **"Supplier's**  **Provisional**  **Supplier**  **Personnel List"** | a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier; |
| **"Term"** | the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract; |
| **"Transferring**  **Buyer**  **Employees"** | those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date; |
| **"Transferring**  **Former Supplier**  **Employees"** | in relation to a Former Supplier, those employees of the  Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date. |

## 2. INTERPRETATION

2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the

Subcontractor fails to satisfy any claims under such indemnities the Supplier

will be liable for satisfying any such claim as if it had provided the indemnity itself.

2.2 The provisions of Paragraphs 2.1 and 2.6 of Part A, Paragraph 3.1 of Part B, Paragraphs 1.5, 1.7 and 1.9 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together “Third Party Provisions”) confer benefits on third parties (each such person a “Third Party Beneficiary”) and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.

2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Call-Off Contract has no right under the CRTPA to enforce any term of this Call-Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

2.5 Any amendments or modifications to this Call-Off Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## 3. Which parts of this Schedule apply

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

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

* [Part A (Staff Transfer at the Start Date – Outsourcing from the Buyer)] o [Part B (Staff Transfer at the Start Date – Transfer from a Former

Supplier)] o [Part C (No Staff Transfer on the Start Date)]

* [Part D (Pensions) ] ● [ - Annex D1 (CSPS) ]
  + [ - Annex D2 (NHSPS) ]
  + [ - Annex D3 (LGPS) ]
  + [ - Annex D4 (Other Schemes) ]
* Part E (Staff Transfer on Exit)

# PART A: STAFF TRANSFER AT THE START DATE OUTSOURCING FROM THE BUYER

## 1. What is a relevant transfer

1.1 The Buyer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Buyer Employee.

1.2 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).

## 2. Indemnities the Buyer must give

2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:

2.1.1 any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;

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

1. any collective agreement applicable to the Transferring Buyer Employees; and/or
2. any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;

2.1.3 any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

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

* + - 1. in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
      2. in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
    1. a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date;
    2. any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
    3. any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

* + 1. arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
    2. arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Buyer as a Transferring Buyer Employee claims, or it is determined in relation to any person who is not identified by the Buyer as a Transferring Buyer Employee, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

* + 1. the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing; and
    2. the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Supplier and/or any Subcontractor.

* 1. If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that a Subcontractor shall, immediately release the person from his/her employment or alleged employment;
  2. If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:
     1. no such offer of employment has been made;
     2. such offer has been made but not accepted; or
     3. the situation has not otherwise been resolved, the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
  3. Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law and subject also to Paragraph 2.7, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
  4. The indemnity in Paragraph 2.6:

2.7.1 shall not apply to:

(a) any claim for:

discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual

orientation, religion or belief; or

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

in any case in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or

(b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer within 6 months of the Start Date

2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Buyer nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the relevant Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.

## 3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any

Subcontractor on or after the Relevant Transfer Date of:

1. any collective agreement applicable to the Transferring Buyer Employees; and/or
2. any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is contractually bound to honour;

3.1.3 any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

3.1.4 any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

3.1.5 any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;

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

1. in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
2. in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Author Buyer ity Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer’s failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9 a failure by the Supplier or any Sub-contractor to comply with its obligations under paragraph 2.8 above.

* 1. The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.
  2. The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier.

## 4. Information the Supplier must provide

4.1 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## 5. Cabinet Office requirements

5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

5.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:

5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013; 5.2.2 Old Fair Deal; and/or

5.2.3 The New Fair Deal.

5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

## 6. Pensions

6.1 The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:

6.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and

6.1.2 Part D: Pensions (and its Annexes) to this Schedule.

# PART B: STAFF TRANSFER AT THE START DATE TRANSFER FROM A FORMER SUPPLIER

## 1. What is a relevant transfer

1.1 The Buyer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

## 2. Indemnities given by the Former Supplier

2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:

2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;

2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

1. any collective agreement applicable to the Transferring Former Supplier Employees; and/or
2. any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

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

1. in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
2. in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;

2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the bility arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the

Supplier or any Subcontractor whether occurring or having its origin before, on

or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

* + 1. arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
    2. arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

* + 1. the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer and in writing and, where required by the Buyer, notify the relevant Former Supplier in writing; and
    2. the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law, within 15 Working Days of receipt of notice from the Supplier and/or the Subcontractor (as appropriate).
  1. If an offer referred to in Paragraph 2.3.2 is accepted, , or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
  2. If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:
     1. no such offer of employment has been made;
     2. such offer has been made but not accepted; or
     3. the situation has not otherwise been resolved, the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;
  3. Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law and subject also to Paragraph 2.7, the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
  4. The indemnity in Paragraph 2.6:

2.7.1 shall not apply to:

(a) any claim for:

* + - * 1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
        2. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees;

in any case in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or

(b) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer and, if applicable, the Former Supplier, within 6 months of the Start Date.

2.8 If Subcontractorany such person as is described in Paragraph 2.3 is neither reemployed by the Former Supplier nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.

## 3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer and/or the Former Supplier against any Employee Liabilities arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any

Subcontractor on or after the Relevant Transfer Date of:

1. any collective agreement applicable to the Transferring Former Supplier Employee; and/or
2. any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;

3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

3.1.4 any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

3.1.5 any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;

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

1. in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
2. in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a

Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier’s failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

## 4. Information the Supplier must give

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer’s direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## 5. Cabinet Office requirements

5.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; 5.1.2 Old Fair Deal; and/or

5.1.3 The New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

## 6. Limits on the Former Supplier’s obligations

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer’s contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## 7. Pensions

7.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with:

7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; ; and

7.1.2 Part D: Pensions (and its Annexes) to this Schedule.

# PART C: NO STAFF TRANSFER ON THE START DATE

## 1. What happens if there is a staff transfer

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

1.2 If any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, notify the Former Supplier in writing; and

1.2.2 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Supplier or the Subcontractor (as appropriate) or take such other reasonable steps as the Buyer or Former Supplier (as the case may be) it considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Buyer and/or the Former Supplier),, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.

1.4 If by the end of the 15 Working Day period referred to in Paragraph 1.2.2:

1.4.1 no such offer of employment has been made;

1.4.2 such offer has been made but not accepted; or

1.4.3 the situation has not otherwise been resolved; the Supplier may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

1.5 Subject to the Supplier and/or the relevant Subcontractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.8 the Buyer shall:

1.5.1 indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4

provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and

1.5.2 procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

1.6 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.

1.7 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

1.8 The indemnities in Paragraph 1.5:

1.8.1 shall not apply to:

1. any claim for:
   * + 1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
       2. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Supplier and/or Subcontractor; or

1. any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and

1.8.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Subcontractor to the Buyer and, if applicable, Former Supplier within 6 months of the Start Date.

1.9 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

## 2. Limits on the Former Supplier’s obligations

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

# PART D: PENSIONS

|  |  |
| --- | --- |
| **[Guidance: You should take specific legal advice on this Part D. Please also note that this Part D is drafted to reflect the requirements of New Fair Deal. Accordingly, where a contracting authority is a best value authority it will be subject to the requirements of the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 if appropriate) and should take further specific legal advice to** | |
| **ensure compliance with those Directions.]** |  |

## 1. Definitions

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

|  |  |  |
| --- | --- | --- |
| **"Actuary"** |  | a Fellow of the Institute and Faculty of Actuaries; |
| **"Admission**  **Agreement"** |  | either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement (as defined in Annex D3:  LGPS), as the context requires; |
| **“Best**  **Direction”** | **Value** | the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh  Authorities Staff Transfers (Pensions) Direction  2012 (as appropriate); |
| **"Broadly**  **Comparable"** |  | (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the  Government Actuary’s Department of a  broad comparability certificate; and/or |
|  |  | (b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme’s certificate of broad comparability issued by the Government  Actuary’s Department, and "**Broad Comparability**" shall be construed accordingly; |

|  |  |  |
| --- | --- | --- |
| **"CSPS"** | | the schemes as defined in Annex D1 to this Part D; |
| **“Direction**  **Letter/Determination**  **”** | | has the meaning in Annex D2 to this Part D; |
| **“Fair Deal Eligible**  **Employees”** |  | each of the CSPS Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D); |
| **"Fair Employees"** | **Deal** | any of:  (a) Transferring Buyer Employees; |
|  |  | (b) Transferring Former Supplier Employees; |
|  |  | (c) employees who are not Transferring Buyer  Employees or Transferring Former Supplier  Employees but to whom the Employment  Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of  Parts A or B or Paragraph 1.4 of Part C; |
|  |  | (d) where the Supplier or a Subcontractor was the Former Supplier, the employees of the Supplier (or Subcontractor); |
|  |  | who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph  10 of this Part D as notified by the Buyer; |
|  |  |  |
| **"Fund Actuary"** | | a Fund Actuary as defined in Annex D3 to this Part D; |
| **"LGPS"** | | the scheme as defined in Annex D3 to this Part D; |
| **"NHSPS"** | | the schemes as defined in Annex D2 to this Part D; |
|  | | (a) |
|  | | (b) |
| **"Statutory Schemes"** | | means the CSPS, NHSPS or LGPS. |

## 2. Supplier obligations to participate in the pension schemes

2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.

2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/ Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

2.3 The Supplier undertakes:

2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/ Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a Subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Sub- contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer[[1]](#footnote-1).

## 3. Supplier obligation to provide information

3.1 The Supplier undertakes to the Buyer*:*

3.1.1 to provide all information which the Buyermay reasonably

request concerning matters referred to in this Part D as expeditiously as possible; and

3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed);

3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of the relevant Contract.

## 4. Indemnities the Supplier must give

4.1 The Supplier shall indemnify and keep indemnified CCS, [NHS Pensions], the Buyerand/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the

Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPS Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;

4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;

4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

Subcontractor:

1. relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract; or
2. arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of the relevant Contract; and/or

4.1.4 arise out of or in connection with the Supplier (or its

Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

4.2 The indemnities in this Part D and its Annexes:

* + 1. shall survive termination of the relevant Contract; and
    2. shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

## 5. What happens if there is a dispute

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Buyer and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer and/or the Supplier be referred to an independent Actuary:

5.1.1 who will act as an expert and not as an arbitrator;

5.1.2 whose decision will be final and binding on the CCS and/or the Buyer and/or the Supplier; and

5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

## 6. Other people’s rights

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

6.2 Further, the Supplier must ensure that the CRTPA will apply to any SubContract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

## 7. What happens if there is a breach of this Part D

7.1 The Supplier agrees to notify the Buyershould it breach any obligations it has under this Part D and agrees that the Buyershall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or

7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

## 8. Transferring Fair Deal Employees

8.1 Save on expiry or termination of the relevant Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment) the Supplier shall or shall procure that any relevant Subcontractor shall:

8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);

8.1.2 consult with about, and inform those Fair Deal Eligible

Employees of the pension provisions relating to that transfer; and

8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the **"New Employer"**) complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

## 9. What happens to pensions if this Contract ends

9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of the relevant Contract.

9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme’s Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPS and/or the relevant Administering Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

## 10. Broadly Comparable Pension Schemes on the Relevant Transfer Date

10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

10.2 Such Broadly Comparable pension scheme must be:

10.2.1 established by the Relevant Transfer Date[[2]](#footnote-2);

10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier’s Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);

10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and

10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

10.3 Where the Supplier has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):

10.3.1 supply to the Buyer details of its (or its Subcontractor’s) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;

10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of

doubt any debts arising under section 75 or 75A of the Pensions Act 1995;

10.3.3 instruct any such Broadly Comparable pension scheme’s Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier’s Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer[[3]](#footnote-3); and

10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract:

10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin

in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with paragraph 10.3.3 but using the last day of the Fair Deal Eligible Employees’ employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and

10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier’s Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier’s Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

## 11. Broadly Comparable Pension Scheme in Other Circumstances

11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

11.2 Such Broadly Comparable pension scheme must be:

11.2.1 established by the date of cessation of participation in the Statutory Scheme[[4]](#footnote-4);

11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);

11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and

11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):

11.3.1 supply to the Buyer details of its (or its Subcontractor’s) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;

11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;

11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme’s Actuary to provide all such cooperation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme[[5]](#footnote-5); and

11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or

Subcontractor's Broadly Comparable pension scheme is closed

to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier’s Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier’s Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits (“**the Shortfall**”), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier’s Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier’s Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

## 12. Right of Set-off

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under the relevant Contract an amount equal to:

12.1.1 any unpaid employer’s contributions or employee’s contributions or any other financial obligations under the CSPS or any CSPS Admission Agreement in respect of the CSPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

12.1.2 any unpaid employer’s contributions or employee’s contributions or any other financial obligations under the NHSPS or any Direction Letter/Determination in respect of the NHSPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or

12.1.3 any unpaid employer’s contributions or employee’s contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under the relevant Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

**Annex D1:**

# Civil Service Pensions Schemes (CSPS)

## 1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **"CSPS**  **Admission**  **Agreement"** | an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services; |
| **"CSPS Eligible**  **Employee"** | any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement; |
| **“CSPS Fair Deal**  **Employee”** | a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal; |
| **"CSPS"** | the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014. |

## 2. Access to equivalent pension schemes after transfer

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer

Date. The Supplier and/or any of its Subcontractors shall procure that the CSPS

Fair Deal Employees continue to accrue benefits in the CSPS in accordance

with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

2.2 If the Supplier and/or any of its Subcontractors enters into a CSPS Admission

Agreement in accordance with paragraph 2.1 but the CSPS Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPS on the date those CSPS Eligible Employees ceased to participate in the CSPS in accordance with the provisions of paragraph 11 of Part D.

# Annex D2: NHS Pension Schemes

## 1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **"Direction**  **Letter/Determination**  **"** | an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Fair Deal Employees; |

|  |  |
| --- | --- |
| **“NHS Broadly**  **Comparable Employees”** | each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:   1. their employment with the Buyer*,* an NHS Body or other employer which participates automatically in the NHSPS; or 2. their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),   but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS. |
| **"NHSPS Eligible**  **Employees"** | any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter. |
| **"NHSPS Fair Deal**  **Employees"** | other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either: |
|  | (a) their employment with the Buyer*,* an NHS Body or other employer which participates automatically in the NHSPS; or |

|  |  |
| --- | --- |
|  | (b) their employment with a Former Supplier who provides access to the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier), |
|  | and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services). |
|  | For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/ Determination or other NHSPS "access" facility but who has never been employed directly by the Buyer, an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Fair Deal Employee; |
| **"NHS Body"** | has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012; |
| **"NHS Pensions"** | NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS; |
| **"NHSPS"** | the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme  Regulations; |
|  |  |
| **"NHS Pension**  **Scheme**  **Regulations"** | as appropriate, any or all of the National Health  Service Pension Scheme Regulations 1995  (SI 1995/300), the National Health Service  Pension Scheme Regulations 2008  (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time; |
| **"NHS Premature**  **Retirement Rights"** | rights to which any NHS Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time; |
| **"Pension Benefits"** | any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor’s benefits provided under an occupational pension scheme. |
|  |  |

## 2. Membership of the NHS Pension Scheme

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

2.2 Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Supplier must ensure that:

1. all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
2. the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
   1. The Supplier must supply to the Buyera complete copy of each Direction Letter/

Determination within 5 Working Days of receipt of the Direction

Letter/Determination.

* 1. The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
  2. The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
  3. Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
  4. The Supplier will (and will procure that its Subcontractors (if any) will) Subcontractor provide any guarantee, bond or indemnity required by NHS Pensions in relation to a Direction Letter/Determination.

## 3. Continuation of early retirement rights after transfer

3.1 From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

## 4. NHS Broadly Comparable Employees

4.1 The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

## 5. What the buyer can do if the Supplier breaches its pension obligations

5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractor) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.

5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, theSupplier (or any such Subcontractor, as appropriate) shall offer to offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of paragraph 11 of Part D. Subcontractor.

## 6. Compensation when pension scheme access can’t be provided

6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:

6.1.1 the NHSPS (having used its best endeavours to secure a

Direction Letter/Determination); or

6.1.2 a Broadly Comparable pension scheme, the Buyermay in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyerdetermining whether the level of compensation offered is reasonable in the circumstances.

6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer’s right to terminate the Contract.

## 7. Indemnities that a Supplier must give

7.1 The Supplier must indemnify and keep indemnified the CCS, the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

**Annex D3:**

# Local Government Pension Schemes (LGPS)

|  |  |  |
| --- | --- | --- |
| **[Guidance: You should take specific legal advice on this Annex D3 and in** | | |
| **particular the risk apportionment provisions contained herein.** |  | |
| **Please note that this Part D is drafted to reflect the requirements of New Fair Deal. Accordingly, where a contracting authority is a local authority (or other type of best value authority) then it will be subject to the requirements of the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (or the Welsh**  **Authorities Staff Transfers (Pensions) Direction 2012 if appropriate) and should** | | |
| **take further specific legal advice to ensure compliance with those Directions.** | |  |

Note the LGPS unlike the CSPS & NHSPS is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Buyer, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether CCS and or the Buyer can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

## 1. Definitions

In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **“2013**  **Regulations”** | the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time); | | | | |
| "**Administerin g Buyer**" | in relation to the 2013 Regulations; | | **the Fund [insert name],** | the relevant | |
| Administering Buyer of that Fund for the purposes of |
| "**Fund**  **Actuary**" | the actuary to a Fund appointed by the Administering Buyer of that Fund; | | | | |
| "**Fund**" |  | **[insert name], a pension fund within the LGPS;** | | |  |
|  | | |
| **[“Initial**  **Contribution**  **Rate”[[6]](#footnote-6)]** | [XX %] of pensionable pay (as defined in the 2013 Regulations);] | | | | |
| "**LGPS**" | the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme; | | | | |
| "**LGPS**  **Admission**  **Agreement**" | an admission agreement within the meaning in Schedule 1 of the 2013 Regulations; | | | | |
| "**LGPS**  **Admission**  **Body**" | an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations); | | | | |
| "**LGPS Eligible**  **Employees**" | any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement; | | | | |
| "**LGPS Fair**  **Deal**  **Employees**" | any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; ; | | | | |
| "**LGPS Regulations**" | the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS. | | | | |

## 2. Supplier to become an LGPS Admission Body

2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair

Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

## OPTION 17

2.2 [Any LGPS Fair Deal Employees who:

2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and

2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so. ]

## OPTION 2

[Any LGPS Fair Deal Employees whether:

2.2.3 active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or

2.2.4 eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

2.3 The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Buyer in relation to an LGPS Admission Agreement.

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## 3. Broadly Comparable Scheme

3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with paragraph 2.1 because the

Administering Buyer will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of paragraph 10 of Part D.

3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of paragraph 11 of Part D.

## 4. Discretionary Benefits

Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

## 5. LGPS RISK SHARING8

5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of the relevant Contract the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the “Excess Amount”) shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.

5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of the relevant Contract, the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the “Refund Amount”) where:

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1. = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
2. = the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
   1. Subject to paragraphs 5.4 to 5.10, where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.
   2. The Supplier and any Subcontractors shall at all times be responsible for the following costs:
      1. any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
      2. any payment of Fund benefits to active members on the grounds

of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise9;

* + 1. any payment of Fund benefits to deferred or deferred pensioner

members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;

* + 1. any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
    2. any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
    3. any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible

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Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);

* + 1. to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;
    2. any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor’s employer contribution rate, including without limitation an amount specified in a notice given by the Administering Buyer under Regulation 70 of the 2013 Regulations;
    3. the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
    4. any interest payable under the 2013 Regulations or LGPS Administration Agreement.
  1. For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
  2. Where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Credit**”), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
  3. The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
     1. of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
     2. of being informed by the Administering Buyer of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.

5.8 Within twenty (20) Working Days of receiving the notification under paragraph

5.7 above, the Buyer shall either:

* + 1. notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
    2. request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
    3. request a meeting with the Supplier to discuss or clarify the information or evidence provided.
  1. Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.
  2. Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.
  3. Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
  4. This paragraph 5 shall survive termination of the relevant Contract.

**Annex D4: Other Schemes**

**[Guidance:** Placeholder for Pension Schemes other than LGPS, CSPS & NHSPS]

# Part E: Staff Transfer on Exit

## 1. Obligations before a Staff Transfer

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;

1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;

1.1.3 the date which is 12 Months before the end of the Term; and

1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any

6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier

Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier’s Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.

1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Supplier’s Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):

:

1.5.1 replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Staff (including pensions and any payments connected with the termination of employment);

1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;

1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's

Provisional Supplier Personnel List;

1.5.5 increase or reduce the total number of employees so engaged,

or deploy any other person to perform the Services (or the relevant part of the Services);

1.5.6 terminate or give notice to terminate the employment or contracts

of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;

and shall promptly notify, and procure that each Subcontractor shall promptly notify, the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or relevant Subcontractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer such information as the Buyer may reasonably require relating to the manner in which the Services are organised, which shall include:

1.6.1 the numbers of employees engaged in providing the Services;

1.6.2 the percentage of time spent by each employee engaged in providing the Services;

1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and

1.6.4 a description of the nature of the work undertaken by each employee by location.

1.7 The Supplier shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer

Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

1.7.1 the most recent month's copy pay slip data;

1.7.2 details of cumulative pay for tax and pension purposes;

1.7.3 details of cumulative tax paid;

1.7.4 tax code;

1.7.5 details of any voluntary deductions from pay; and

1.7.6 bank/building society account details for payroll purposes.

## 2. Staff Transfer when the contract ends

2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of the relevant Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Buyer and the Supplier agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee.

2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments ofPAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including)

the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;

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

1. any collective agreement applicable to the

Transferring Supplier Employees; and/or

1. any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;

2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

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

1. in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
2. in relation to any employee who is not identified in the

Supplier’s Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any

Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);

2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

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

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

2.4.2 arising from the Replacement Supplier’s failure, and/or Replacement Subcontractor’s failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not identified in the Supplier's Final Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

2.5.1 the Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing; and

2.5.2 the Supplier may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor.

2.6 If such offer of is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, Buyer shall procure that the Replacement Supplier shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release the person from his/her employment or alleged employment;

2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:

2.7.1 no such offer has been made:

2.7.2 such offer has been made but not accepted; or

2.7.3 the situation has not otherwise been resolved

the Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor (as appropriate) that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person;

2.8 Subject to the Replacement Supplier's and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 and in accordance with all applicable proper employment procedures set out in applicable Law and subject to Paragraph 2.9 below, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement

Subcontractor takes, all reasonable steps to minimise any such Employee

Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

1. any claim for:
   * + - 1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual

orientation, religion or belief; or

* + - * 1. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

In any case in relation to any alleged act or omission of the

Replacement Supplier and/or Replacement Subcontractor, or

1. any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Subcontractor to the Supplier within 6 months of the Service Transfer Date..

* 1. If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee. .
  2. The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier’s Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (b) the Supplier and/or any Subcontractor; and

1. the Replacement Supplier and/or the Replacement Subcontractor.

* 1. The Supplier shall, and shall procure that each Subcontractor shall, promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
  2. Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any

Replacement Subcontractor and its Subcontractors against any Employee

Liabilities arising from or as a result of:

* + 1. any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
    2. the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
       1. any collective agreement applicable to the

Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List; and/or

* + - 1. any custom or practice in respect of any Transferring

Supplier Employees identified in the Supplier’s Final Supplier Personnel List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

* + 1. any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
    2. any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or

working conditions of any person identified in the Supplier’s Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

* + 1. any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
    2. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

1. in relation to any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
2. in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

2.13.7 a failure of the Replacement Supplier or Replacement

Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement

Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

# Call-Off Schedule 3 (Continuous Improvement)

## 1. Buyer’s Rights

1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.

## 2. Supplier’s Obligations

2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer’s costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.

2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.

2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year (**"Continuous Improvement Plan"**) for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:

2.3.1 identifying the emergence of relevant new and evolving technologies;

2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);

2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and

2.3.4 measuring and reducing the sustainability impacts of the

Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.

2.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred

(100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.

2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed

Continuous Improvement Plan or any updates to it within twenty (20) Working

Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working

Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.

2.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.

2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:

2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and

2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.

2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.

2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.

2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.

2.12 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

# Call-Off Schedule 4 (Call Off Tender)

**5.1**

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

## 5.2

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

**6.1**

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

**6.2**

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

# Call-Off Schedule 5 (Pricing Details)

Breakdown of Proposal Cost – Evaluated

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

Info Only – Rental Charges

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

Info only – Insurance Charges

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

Info only – Additional Charges

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

# Call-Off Schedule 9 (Security) Short Form Security Requirements

## 1. Definitions

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

|  |  |
| --- | --- |
| **"Breach of Security"** | **the occurrence of:**   1. **any unauthorised access to or use of the**   **Deliverables, the Sites and/or any**  **Information and Communication**  **Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or**   1. **the loss and/or unauthorised disclosure of any information or data (including the**   **Confidential Information and the**  **Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,**  **in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;** |
| **"Security**  **Management Plan"** | **the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.** |

## 2. Complying with security requirements and updates to them

2.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

2.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

2.3 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

2.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

2.5 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

## 3. Security Standards

3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.

3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:

3.2.1 is in accordance with the Law and this Contract;

3.2.2 as a minimum demonstrates Good Industry Practice;

3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and

3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.

3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.

3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

## 4. Security Management Plan

### 4.1 Introduction

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

### 4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

1. comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
2. identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
3. detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer’s Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that

Information, data and/or the Deliverables;

1. be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer’s Confidential

Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;

1. set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the

Deliverables comply with the provisions of this Contract;

1. set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
2. be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

### 4.3 Development of the Security Management Plan

4.3.1 Within twenty (20)Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.

4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph

4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.

4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

### 4.4 Amendment of the Security Management Plan

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

1. emerging changes in Good Industry Practice;
2. any change or proposed change to the Deliverables and/or associated processes;
3. where necessary in accordance with paragraph 2.2, any change to the Security Policy;
4. any new perceived or changed security threats; and
5. any reasonable change in requirements requested by the Buyer.

4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and

amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation: a) suggested improvements to the effectiveness of the Security

Management Plan;

* 1. updates to the risk assessments; and
  2. suggested improvements in measuring the effectiveness of controls.
     1. Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
     2. The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## 5. Security breach

5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:

5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

1. minimise the extent of actual or potential harm caused by any Breach of Security;
2. remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted

Breach of Security;

1. prevent an equivalent breach in the future exploiting the same cause failure; and
2. as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or

attempted Breach of Security, including a cause analysis where required by the Buyer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

# Call-Off Schedule 14 (Service Levels)

## 1. Definitions

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

|  |  |
| --- | --- |
| **“Critical Service**  **Level Failure”** | has the meaning given to it in the Order Form; |
| **"Service Credits"** | any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels; |
| **"Service Credit**  **Cap"** | has the meaning given to it in the Order Form; |
| **"Service Level**  **Failure"** | means a failure to meet the Service Level  Performance Measure in respect of a Service Level; |
| **"Service Level**  **Performance**  **Measure"** | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and |
| **"Service Level Threshold" “Social Value Review”** | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.  A review detailing Supplier’s delivery against social value commitments made in the Supplier’s Call-Off Contract tender or agreed in the Supplier’s social value implementation plan. |

## 2. What happens if you don’t meet the Service Levels

2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.

2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier’s failure to meet any Service Level Performance Measure.

2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.

2.4 A Service Credit shall be the Buyer’s exclusive financial remedy for a Service Level Failure except where:

2.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or

2.4.2 the Service Level Failure:

1. exceeds the relevant Service Level Threshold;
2. has arisen due to a Prohibited Act or wilful Default by the Supplier;
3. results in the corruption or loss of any Government Data; and/or
4. results in the Buyer being required to make a compensation payment to one or more third parties; and/or

2.4.3 the Buyer is entitled to or does terminate this Contract pursuant to Clause 10.4 (CCS and Buyer Termination Rights).

2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months’ notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

* + 1. the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
    2. the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
    3. there is no change to the Service Credit Cap.

## 3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that

Service Period ("**Compensation for Critical Service Level Failure**"), provided that the operation of this paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

# Part A: Service Levels (Service Credits N/A)

## 1. Service Levels

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any Service Level Performance Measure; or

1.2 is likely to cause or causes a Critical Service Failure to occur, the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

## 2. Service Credits

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

# Annex A to Part A: Services Levels

|  |  |  |  |
| --- | --- | --- | --- |
| **KPI/SLA** | **Service Area** | **KPI/SLA description** | **Target** |
| 1 | Vehicle  Availability | Fulfilling a booking in relation to supply of the correct specification/group of vehicle, within the ordered timeframe, or offering an alternative vehicle specification/group or delivery means, which is acceptable to the customer.  Suppliers are required to provide evidence of vehicle booked compared with vehicle offered/supplied including when cancelled or not delivered by the Supplier. | 98% |
| 2 | Invoicing | The Supplier shall provide Buyers with accurate invoices each month.  Accuracy is based on all lines being reported with no errors, resulting in an undisputed consolidated invoice. | 80% (4 out of 5) of monthly reports which are accurate  over a 5month period. Each monthly invoice carries 20% weighting |
| 3 | Vehicle  traffic violations | Supplier payment of issued fines within initial permitted period set out by the penalties clerk and Supplier contacting Buyer on 100% of occasions within 5 working days to advise of correspondence, summons or fine issue. | 100% |
| 4 | Social Value Review | For contracts where a Further Competition took place or Direct Awards over £100,000 spend per annum, on-time submission of an annual Social Value Review no later than one month following the  anniversary of the Call-Off Contract golive date. | 100% |

# Part B: Performance Monitoring

## 3. Performance Monitoring and Performance Review

3.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

3.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

3.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;

3.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;

3.2.3 details of any Critical Service Level Failures;

3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;

3.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and

3.2.6 such other details as the Buyer may reasonably require from time to time.

3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The

Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:

3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;

3.3.2 be attended by the Supplier's Representative and the Buyer’s Representative; and

3.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer’s Representative and any other recipients agreed at the relevant meeting.

3.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer’s Representative at each meeting.

3.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

## 4. Satisfaction Surveys

4.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

# Call-Off Schedule 20 (Call-Off Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Call-Off Contract

**REDACTED TEXT under FOIA Section 43 Commercial Interests**

# RM6265 Call-Off Schedule 22 (Vehicle Hire Terms)

This document is not intended for use for international Hire under Lot 1 and may be used at the Buyer’s discretion for Call-Off contracts under Lot 4.

See Call-Off Schedule 24 (Car Share Hire Terms) for use with car share solutions.

**Contents:**

1. Introduction
2. Definitions
3. Exclusion of certain Core Terms
4. Hires
5. Hiring Vehicles
6. Minimum Age of Vehicles
7. Hours of Service
8. Booking arrangements for Hires
9. Confidentiality/Enhanced Security
10. Delivery
11. Collection
12. Abortive Delivery and Collection Cancellation
13. Fuels
14. Title, Possession and Risk
15. Documentation
16. Fines and Penalties
17. Taking Vehicles Overseas
18. Limits of Use
19. Breakdown, Roadside Assistance and Damage
20. Maintenance
21. Insurance
22. Payment and Invoicing
23. Termination of a Hire
24. Consequences of Termination

Annex A - Hire Form Template

Annex B – Vehicle Types and Availability

## 1. Introduction

1.1 The Buyer has decided to hire Vehicles under the Framework Contract using Framework Schedule 7 (Call-Off Award Procedure) and has stated its requirement using Framework Schedule 6 - Order Form Template, specified Joint Schedules and Call-Off Schedules, this Call-Off Schedule 22 (Vehicle Hire Terms) including Annex A - Hire Form Template and the Core Terms.

1.2 The Buyer’s attention is drawn to clauses 10, 11, 12, 13, 14, 16, 17, 18 and 19 of this Schedule which it may wish to bring to the attention of drivers of Vehicles in order to avoid breaches of the Hire terms. The remaining clauses primarily address the Call-Off Contract level relationship and formation of Hires incorporating the terms set out in clause 1.1.

## 2. Definitions

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

|  |  |
| --- | --- |
| **"Actual Delivery Time"**    **“Actual Return Time”** | the time and date on which a Vehicle is delivered to the Buyer;  the time and date on which a Vehicle is actually returned to, or collected by the Supplier; |
| **"Additional Charges"**    **“Breakdown Assistance Provider”**    **“Buyer’s Hire Policy”**    **“Crown Indemnity”** | the amounts so specified in Call-Off Schedule 5 (Pricing Details) or a Hire relating to all items except  Rental Charges and Insurance Charges;  any third party which the Supplier uses, to provide breakdown and roadside assistance services to the Buyer whether in the UK or overseas;  a document that outlines the guidelines, rules and behaviours relating to the use of hired vehicles by employees of the Buyer; where the Buyer is its own insurer; |

|  |  |
| --- | --- |
| **“Collision Damage**  **Waiver”**    **“Daily Rental”** | the waiver by the Supplier of the Buyer's liability for theft, loss or damage to the Equipment, subject to the excess stated in Call-Off Schedule 5 (Pricing Details);  daily rental of Vehicles under a Call-Off Contract excluding any Car Share Vehicles; |
| **“Delivery location”** | the location or place for delivery specified in the Hire; |
| **“Due Delivery Time”** | the time and date for delivery specified in the Hire; |
| **"Due Return Time"**    **“Equipment"** | the time and date so specified in the Hire for return or collection;  those devices, machines, tools and technology set out in Framework Schedule 1 - Specification or as described in the Call-Off Contract; |
| **“Hire”** | an agreement specifying the Vehicles and Equipment that the Buyer will hire from the Supplier under the Call-Off Contract when needed which the Buyer will detail using the online booking system or an equivalent form as agreed by the Parties from time to time; |
| **"Hire Period"** | in relation to a Vehicle, the period commencing at the Actual Delivery Time for that Vehicle and ending at the Actual Return Time for that Vehicle unless extended or terminated early in accordance with this Call-Off Contract; |
| **“Insurance Charges”**    **"Net Book Value"** | the amounts so specified in the Call-Off Schedule 5 (Pricing Details) or a Hire relating to insurance;  the value of a Vehicle from time to time being its purchase price (excluding any applicable Road Fund Licence) less an amount equal to the depreciation of the Vehicle, calculated on a straight-line basis, at the time a valuation is made;; |
| **“Out of Hours”**    **"Rental Charges"** | means hours outside of 08.00-18.00 Monday to Friday, 09.00 to 12.00 Saturday and Bank Holidays in the UK;  the amount specified in the Call-Off Contract to be paid by the Buyer to the Supplier for hire of a Vehicle(s); | |
| **“Settlement Sum”**                  **"Total Loss"** | for any Vehicle, the aggregate of:   1. any Charges due but unpaid up to the date of termination; and 2. the Total Loss value; and 3. any difference between the Total Loss value and the present worth of the asset, represented by the Net Book Value as calculated by the Supplier less   any monies actually received and retained by the Supplier as payment from the Buyer's insurers for the Total Loss    any event which, in the opinion of the insurers of the Vehicle renders the Vehicle incapable of economic repair if it is lost, stolen, damaged or destroyed; | |
| **“Vehicle”**    **“Vehicle Damage** | means those vehicles as described in the Hire;    means a report estimating Vehicle damage resulting from accidents or similar incident circumstances produced by an ATA (Automotive Technician  Accreditation) registered source; | |
| **Assessment Report”** |
|  |  | |
| **“Vehicle Inspection**  **Form”** | is the form either paper or electronic copy that shall be provided by the Supplier with the Vehicle at the commencement of the Hire Period which details information on the condition of the Vehicle, the mileage and level of fuel. | |

## 3 Exclusion of certain Core Terms

3.1 When the Parties have entered into a Call-Off Contract which incorporates the Call-Off Schedule 22 - Vehicle Hire Terms, the following Core Terms are modified in respect of the Call-Off Contract (but are not modified in respect of the Framework Contract):

3.1.1 Clause 3.1.2 does not apply to the Call-Off Contract;

3.1.2 Clause 3.2 does not apply to the Call-Off Contract;

3.1.3 Clause 8.7 does not apply to the Call-Off Contract;

## 4 Hires

4.1 Each Hire is subject to, and incorporates these Call-Off Schedule 22 - Vehicle Hire Terms, so that no other terms and conditions under any quotation, confirmation of order, delivery note, invoice or similar document are part of the Call-Off Contract.

4.2 The Parties agree that any other terms and conditions (whether or not inconsistent with the terms of the Call-Off Contract) contained or referred to in any correspondence or any documentation submitted by the Supplier which is not part of the Framework Contract or which are elsewhere implied by custom, practice or course of dealing do not apply.

4.3 The Supplier must send a confirmation of the Hire to the Buyer by electronic means (or by any other method as the Parties may agree from time to time) to the Customer within 2 working hours, and the confirmation will confirm the order details including:

4.3.1 a description of the Vehicle(s) ordered and agreed cost;

4.3.2 details of any additional extras ordered and any conversion work to be carried out as set out in the Specification;

4.3.3 the delivery and collection details.

4.4 The Supplier warrants that the Vehicle conforms to the Hire, is of satisfactory quality and fit for any purpose held out by the Supplier.

4.5 Each Hire survives the expiration or termination of both the Call-Off Contract and Framework Contract.

## 5 Hiring Vehicles

5.1 In consideration of the payment of the Rental Charges, Additional Charges and Insurance Charges, the Supplier will supply the Vehicle to the Buyer in accordance with the Call-Off Contract and the requirements notified to the Supplier in the Hire.

5.2 The Supplier shall advise the Buyer on the selection and specification of the Vehicle and, where applicable, any conversion work to be carried out to ensure that the Vehicle is suitable for the requirements of the Buyer.

## 6 Minimum Age of Vehicles

6.1 From the commencement of the Hire Period, and unless otherwise agreed with the Buyer in the Call-Off Contract, the following Vehicle age limits shall apply:

6.1.1 All cars supplied shall be less than 3 years old from the date of first registration;

6.1.2 All vans supplied shall be less than 5 years old from the date of first registration;

6.1.3 All minibuses supplied shall be less than 4 years old from the date of registration;.

6.2 All HGV’s supplied shall be less than 7 years old from the date of first registration.

## 7 Hours of Service

7.1 The Supplier shall ensure that its operating hours in relation to the provision of the Deliverables in the UK shall be within the hours of 08:00 to 18:00 Monday to Friday and 09:00 to 12:00 Saturday excluding Bank Holidays.

7.2 Operating hours outside of the UK shall be agreed by the Buyer and Supplier in the Call-Off Contract.

7.3 The Supplier shall provide an Out of Hours service for any delivery or collection of a Vehicle outside of the normal operating hours in the UK.

7.4 The Supplier shall provide an Out of Hours emergency contact number chargeable at a local rate in the event of the Buyer requiring breakdown or roadside assistance. For international hire, the Supplier’s operative shall be able to speak English and the language of the country of use.

## 8 Booking arrangements for Hires

8.1 The Supplier shall allow the Buyer to place Hires by telephone and email for standard Vehicles for all rental durations.

8.2 The Supplier shall allow the Buyer to place Hires through a secure online booking system for standard Vehicles on Lot 1 for Hires of up to 27 days. If agreed, the Supplier shall allow the Buyer to place Hires through a secure online booking system for standard Vehicles on all other Lots and on Lot 1 for 28 days or over.

8.3 The Supplier online booking system shall as a minimum:

8.3.1 have the facility to identify which groups of Vehicle are within or

out of the Buyer’s Hire Policy and allow or prevent their Hire (and associated services) accordingly;

8.3.2 have the facility to enable Buyer line management pre-trip approval where required;

8.3.3 have the facility to offer all fuel types, e.g electric, hybrid, diesel and petrol; and

8.3.4 have the facility to collect information about multiple drivers.

8.4 The Supplier shall, where required, provide training in the use of the online booking system through manual or verbal guidance.

8.5 The Supplier shall provide the Buyer with a single unique reference number at the time the Hire is placed. This shall be used in all correspondence relating to the Vehicle, including invoicing, management information and data reports delivered to the Buyer as set out in Call-Off Schedule 1 - Transparency Reports.

8.6 The Supplier shall notify the Buyer of any changes to the requested Vehicle in sufficient time for the Buyer to make alternative arrangements if necessary and in any event prior to delivery; and if the Buyer does not accept such changes to the Vehicle, the Buyer can cancel the Hire without penalty or cancellation charge.

8.7 If a Vehicle from the group requested by the Buyer as a Daily Rental is not available the Supplier shall use its reasonable endeavours to provide a Vehicle of the same or lower emissions level.

8.8 If an upgrade to a different Vehicle group is provided the Rental Charge applicable to the Vehicle group originally requested by the Buyer shall apply.

8.9 If an upgrade to a different Vehicle group is not available and a Vehicle from a lower group is provided, the Rental Charge from the lower group shall apply.

8.10 Following the acceptance of a Hire, the Supplier shall make the Vehicle available within the timeframes specified in Annex B (Vehicle Types and

Availability).

8.11 The Supplier shall notify the Buyer if the availability period (as specified in Annex B (Vehicle Types and Availability) needs to be extended.

8.12 The Supplier shall not unreasonably refuse to accept any Hires.

8.13 Where requested by the Buyer before the Call-Off Contract commences, the Supplier shall use the Buyer’s or a third party’s online booking system. The Supplier shall provide electronic access to receive Hires from the Buyer or third party (subject to entering into a code of connection agreement which shall be subject to a separate charge to be agreed with the Buyer before the Call-Off Contract commences).

## 9 Confidentiality/Enhanced Security

9.1 Where requested by the Buyer, the Supplier shall:

9.1.1 supply Vehicles e.g. for use in covert operations, having the appearance of being used for other purposes, having signage or livery attached or be free of Supplier’s logos;

9.1.2 supply a replacement Vehicle at short notice, within a timescale to be agreed in the Call-Off Contract;

9.1.3 keep the driver and Buyer’s details anonymous so as not to disclose their true identity.

## 10 Delivery

10.1 The Supplier shall supply the Vehicle to the Delivery Place at or before the Due Delivery Time. The Supplier shall provide the driver with all relevant information to allow the driver to become familiar with the Vehicle's operation including the type of fuel used.

10.2 The Supplier shall offer delivery and collection of Vehicles within Working Hours and out of hours and may offer Vehicles as one-way Hires unless otherwise agreed at Call-Off.

10.3 For Lots 1 and 2, the Supplier may charge for delivery and collection at the Charge specified in Call Off Schedule 5 - Pricing Details for either 0-10 or 11-20 miles but should not apply Charges for both distance brackets. If delivery and collection is over 20 miles the Supplier may apply a Charge per mile for each additional mile as well as the Charge for 11-20 miles. The Supplier can apply both a delivery and collection Charge on the same booking if delivery and collection takes place.

10.4 Any other delivery and collection charges are to be agreed with the Buyer at Call-Off Contract.

10.5 If specialist Equipment is provided with the Vehicle, the Supplier must provide the driver with the appropriate familiarisation awareness training necessary to safely, legally and effectively operate the Vehicle.

10.6 Prior to the start of the Hire Period the driver shall inspect the Vehicle and inform the Supplier of any damage or defects.

10.7 Where representatives of the Buyer are unavailable at the Actual Delivery Time, the Supplier must provide a Vehicle Inspection Form, clearly showing where any damage, however slight, already exists on the Vehicle. Where the driver is not present at the Actual Delivery Time, the Supplier must provide written familiarisation details with the Vehicle.

10.8 When requested to deliver to a Delivery Place which is a chargeable parking area, the Supplier shall pay for 2 hours parking from the commencement of the Hire Period. Such costs shall be reimbursed at cost by the Buyer to the Supplier provided a valid receipt or parking ticket is submitted by the Supplier.

10.9 The Supplier shall make all reasonable efforts to ensure that (unless alternative delivery arrangements are specified by the Buyer) the Delivery Place is a well-lit and secure area.

10.10 The Buyer can at its sole discretion reject a Vehicle which is not as described in the Hire and/or in respect of which the Vehicle Inspection Form does not include the required information. Where the Buyer rejects a Vehicle the Supplier shall provide a suitable replacement within a timescale to be agreed with the Buyer. Where there is minor damage to the Vehicle which has not been noted on the Vehicle Inspection Form, and the Buyer considers the Vehicle fit to drive, it must first inform the Supplier of the damage and obtain approval before driving the Vehicle.

10.11 The Supplier shall provide courtesy transport between airport terminals and their rental outlets within airports when arriving or departing from an airport in the UK or overseas during Work Hours.

10.12 The Supplier shall provide a meet and greet service and a drop off service if the Supplier's rental outlet is not located at the airport.

## 11 Collection and Return

11.1 The Supplier shall immediately complete a Vehicle Inspection Form at the Actual Return Time.

11.2 The Supplier shall collect the Vehicle after the Due Return Time unless otherwise agreed with the Buyer. The Buyer shall be responsible for up to 6 hours of parking charges commencing from the Due Return Time if it requests collection from a chargeable parking area.

11.3 In the event of a Vehicle being returned late the Supplier shall apply a grace period of 29 minutes before an Additional Charge for late return of a Vehicle is incurred. Additional Charges shall continue to be incurred every day in addition to the standard daily Rental Charges following the Due Return Time until the Vehicle is returned by the Buyer or collected by the Supplier.

11.4 The Supplier may allow the Buyer to return the Vehicle to an agreed location different from the Delivery Place with prior notification from time to time. This shall not be considered a one-way Hire.

11.5 The driver shall remove all personal possessions from the Vehicle at the end of the Hire Period. The Supplier does not accept any responsibility for any possessions that are left in a Vehicle.

## 12 Abortive Delivery and Collection Cancellation

12.1 In the event that a Hire needs to be cancelled the Buyer shall notify the Supplier at least 2 Work Hours prior to the commencement of the Hire Period unless otherwise agreed in the Call-Off Contract.

12.2 For delivery locations which are more than 50 miles from the Supplier’s nearest depot the Buyer must provide at least 4 hours of notice over a Working Day of cancellation, unless otherwise agreed in the Call-Off Contract.

12.3 The Supplier shall specify at the time of booking if a longer cancellation notice period for specialist Vehicles is needed.

12.4 Charges shall not apply where the minimum period of notice of cancellation has been given by the Buyer under clauses 12.1 and 12.2.

12.5 In the event where the Buyer has failed to provide sufficient notice of cancellation, the Supplier shall be entitled to a cancellation charge as set out in Call-Off Schedule 5 (Pricing Details) but which shall not exceed one day’s Rental Charge.

12.6 The Supplier shall be entitled to an abortive collection charge which shall not exceed one day's Rental Charge where a Vehicle is not available for collection following a waiting time of 29 minutes.

12.7 The Supplier shall be entitled to an abortive delivery charge which shall not exceed one day's Rental Charge where delivery is attempted when a Buyer has neglected to cancel a Hire which includes delivery.

12.8 The Supplier shall notify the Buyer at the time of cancellation of any Charge that shall be incurred due to abortive delivery or collection.

## 13 Fuels

13.1 Unless otherwise agreed with the Buyer the Supplier shall supply all Vehicles with a minimum of a quarter tank of fuel or half charged if an electric Vehicle, less delivery mileage.

13.2 The Supplier shall record the level of fuel or charge upon delivery of the Vehicle on the Vehicle Inspection Form.

13.3 The Buyer shall return the Vehicle with a like for like level of appropriate fuel or charge.

13.4 If clear identification of the type of fuel is not shown at the filling point, the

Buyer shall not be liable if the Vehicle is re-fuelled with the wrong fuel type.

Where the Buyer incorrectly refuels the Vehicle and informs the Supplier, the Supplier shall arrange for the Vehicle to be repaired.

13.5 The Supplier shall charge refuelling for petrol and diesel in line with a published weekly/monthly fuel price index to be agreed at Call-Off Contract, plus the Supplier’s additional pence per litre refuelling charge. Such indices

include UK government ( [www.gov.uk/government/collections/energyprice-statistics)](http://www.gov.uk/government/collections/energy-price-statistics), Allstar/Fleet News ([https://www.allstarcard.co.uk/tools/ukfuel-prices/)](https://www.allstarcard.co.uk/tools/uk-fuel-prices/), AA (https://www.theaa.com/driving-advice/driving-costs/fuelprices). The Supplier shall charge electric recharging in line with the cost per KwH as defined in a suitable index or as agreed in the Call-Off Contract.

## 14 Title, Possession and Risk

14.1 The Vehicle is the property of the Supplier at all times and the Buyer will not have any right, title or interest in or to the Vehicle apart from the right to possess and use the Vehicle in accordance with the Call-Off Contract.

14.2 Subject to clause 14.5 the Supplier’s liability for loss or damage to the Vehicle ceases at the Actual Delivery Time.

14.3 The Supplier’s liability for loss or damage to the Vehicle shall, unless a different time is agreed in the Call-Off Contract such as for HGVs, commence again at the earlier of:

14.3.1 the Actual Return Time, or;

14.3.2 six (6) hours after the Due Return Time;

14.3.3 Notwithstanding 14.3.1 or 14.3.2 if the Buyer fails to return the Vehicle by the Due Return Time then it remains liable for loss or damage to the Vehicle until a new return time is agreed and the provisions of 14.3.1 or 14.3.2 shall apply.

14.4 The Hire Period for that Vehicle starts at the Due Delivery Time or the Actual Delivery Time, whichever is the later.

14.5 Unless the Buyer notifies non-acceptance of a Vehicle, the Buyer bears the risk of loss or damage to the Vehicle from the time the Supplier’s liability ceases until the time the Supplier’s liability recommences under clause 14.3. The Buyer does not bear the risk of loss or damage:

14.5.1 caused by the negligence of the Supplier or Supplier Staff; or

14.5.2 while the Supplier has possession of the Vehicle, including for any maintenance.

14.6 The Supplier shall give the Buyer quiet possession of the Vehicle throughout the Hire Period.

14.7 the Buyer shall take reasonable steps at its own expense to retain and recover possession and control of a Vehicle of which an individual driver has caused this to be compromised, for example but not limited to a Vehicle being abandoned.

## 15 Documentation

15.1 At the commencement of the Hire Period, the Supplier shall provide the Buyer with the Supplier’s standard documentation, with all the relevant details completed, consisting of as a minimum:

15.1.1 details of the action to be taken in the event of an incident (including windscreen or tyre damage), accident or breakdown including contact details;

15.1.2 a Vehicle Inspection Form;

15.1.3 all documentation must be written in English including for international Vehicle Hire where it must also be written in the language of the country of use.

15.2 Where the Vehicle is an HGV, the Buyer shall comply with its applicable obligations, for Hires commencing in the United Kingdom, under the Goods Vehicles (Licensing Of Operators) Act 1995 and the Road Traffic Act 2000 and in particular ensure that:

15.2.1 it has a valid operator's licence in place permitting operation of the relevant Vehicle(s) and that Buyer is not currently the subject of or awaiting any decision of a public enquiry into its operator's licence and it is not aware of any reason why it may be called to a public enquiry in the foreseeable future. The Buyer shall maintain such operator’s licence and shall provide a copy of its operator's licence on demand and shall notify Supplier of any changes to, revocation, suspension or termination of such licence;

15.2.2 the Vehicle is only used with a valid operator's licence for the traffic area or areas in which the Vehicle is used;

15.2.3 nothing is done to jeopardise the validity of the operator's licence including breaching the operator's licence;

15.2.4 a copy of any request to attend a public enquiry in relation to the operator's licence is forwarded to Supplier and the outcome of the enquiry is notified to Supplier in writing including whether any action is being taken by the Traffic Commissioner (in the United Kingdom) to vary, revoke, amend, suspend or curtail the operator's licence;

15.2.5 the operator's licence is not surrendered without 14 days' written notice being given to Supplier.

## 16 Fines and Penalties

16.1 For road traffic offences where licence endorsements apply such as speeding tickets, the Supplier shall collaborate with the Buyer to identify and inform the driver and notify the penalties clerk by providing a copy of the Hire. The penalties clerk will in turn redirect the fine to the responsible driver.

16.2 The Supplier shall provide the Buyer with full details of any penalties received within 5 working days of receipt from the relevant authorities.

16.3 The Supplier shall be liable for any additional costs arising from escalations to the original penalty or charge if they have failed to notify the Buyer within 5 working days following receipt of the penalty or charge.

16.4 Unless agreed otherwise by the Buyer, for road traffic offences where licence endorsements do not apply such as congestion charges, bus lane charges, parking tickets, the Supplier shall pay the fine on the Buyer’s behalf then recharge the Buyer using applicable supporting documentation as evidence. If the fine is later successfully challenged by the Buyer, the Supplier shall pass on any refund in full to the Buyer.

16.5 The Supplier may charge the Buyer a reasonable administration fee for dealing with any penalties incurred by the Buyer.

16.6 Where the Buyer notifies the Supplier that the Vehicle shall be driven in an area subject to a congestion charge, or other automated toll charges, then the Supplier shall (where possible) provide the Buyer with advanced notification of the Vehicle registration number or if the Vehicle carries an exemption.

## 17 Taking Vehicles Overseas

17.1 The Buyer shall not take or allow any Vehicles to be taken out of the mainland United Kingdom without the written consent of the Supplier.

17.2 The Buyer shall insure the Vehicle for use overseas.

17.3 The Supplier shall assist the Buyer in obtaining any necessary documentation, overseas driver’s pack and other relevant items required for the particular country where the Vehicle is being taken. Subject to the Buyer giving the Supplier two days notice, the Supplier shall provide a VE103B Hire Certificate for driving outside the UK.

17.4 The Buyer shall be responsible for arranging a relevant breakdown and recovery package.

17.5 The Buyer shall ensure that drivers comply with the rules and regulations of the countries to be visited.

17.6 Where convenient to the Buyer, the Vehicle shall be returned to the UK to carry out maintenance or, alternatively, the Supplier shall appoint a local agent to carry out maintenance.

17.7 If requested by the Buyer prior to the departure of the Vehicle from the UK, the Supplier shall provide alterations for winterisation requirements to allow the Vehicle to operate legally in all European countries for snow and ice conditions within 7 working days of request.

## 18 Limits of Use

18.1 While a Vehicle is in its possession, the Buyer shall:

18.1.1 only allow use of the Vehicle for the purpose for which it is

intended and not for the driver’s personal use;

18.1.2 ensure responsible and safe use of the Vehicle and adhere to any explicit Supplier recommendations or guidance given;

18.1.3 not allow the Vehicle to be driven in a careless or reckless manner;

18.1.4 keep the Vehicle in its own control and look after the Vehicle ensuring it is locked and secure all of its parts when not in use;

18.1.5 not do or allow anything to be done which could invalidate the insurances referred to in clause 21;

18.1.6 not allow the Vehicle to be used, or permit its use in any manner

which would infringe any statutory regulation or order relating to the driving and parking of the Vehicle or so as to cause danger to the public or persons in the Vehicle or risk damage to the

Vehicle;

18.1.7 not allow the Vehicle to be driven by any other driver who has not been first authorised by the Buyer;

18.1.8 not allow the Vehicle to be used while any driver is under the influence of alcohol, narcotics, drugs, or any other substance impairing their consciousness or ability to react;

18.1.9 not cause injury, loss or damage to property or person for any illegal, wilful or deliberate purpose;

18.1.10 not allow smoking or the use of e-cigarettes in the Vehicle;

18.1.11 not allow the Vehicle to be driven in or on that part of any aerodrome, airfield, airport or military installation designed for the take-off, landing, taxiing or parking of aircraft and aerial devices, including any associated service roads, fuel supply areas, ground equipment parking areas, aprons, maintenance zones and hangars (unless the Supplier provides prior written consent for the Buyer to do so);

18.1.12 not allow the Vehicle to be driven for racing, pacemaking, testing the Vehicle’s reliability and speed or teaching someone to drive;

18.1.13 not allow the Vehicle to be used off road, on racetracks, on beaches or on test courses without the prior written consent of the Supplier;

18.1.14 not allow the Vehicle to be used for any form of sub-hire or reward activities, including any form of sporting competition, unless agreed by the Supplier;

18.1.15 not allow the Vehicle to to be used to drive through water or over any objects that the driver knew or ought to have known rise above the ground clearance of the Vehicle;

18.1.16 not allow the Vehicle to be driven under a barrier lower than the overhead clearance of the Vehicle;

18.1.17 not allow the Vehicle to be used for motor trade use;

18.1.18 not allow the Vehicle to be used for the transportation of explosives, chemicals, corrosives or other hazardous materials or pollutants of any kind or nature except as allowable under law to transport dangerous or noxious substances;

18.1.19 not allow the Vehicle to be used to carry any goods, materials or produce which may damage the Vehicle or render it unfit to carry any other type of merchandise, or which may be hazardous or harmful to humans or other living beings;

18.1.20 not allow the Vehicle to propel or tow any other Vehicle or a tow truck, except Vehicles fitted with a tow bar with express permission from the Supplier;

18.1.21 not allow the Vehicle to be overloaded with more passengers than seatbelts or to transport children without the legally required car seats;

18.1.22 not allow the Vehicle to be overloaded or used to transport goods with a weight heavier than that authorised for the Vehicle, or to transport goods deficiently distributed or badly secured, or to carry goods that the Buyer does not own for a fee without the

Supplier's written permission;

18.1.23 not allow any mechanical modification or other modification,

alterations or additions to be made to a Vehicle, nor fit any towing equipment, other accessories or non-standard tyres without the Supplier’s prior written consent. Any additions, alterations or modified parts which may be made or incorporated

(whether with or without consent) shall become part of the Vehicle and shall belong to the Supplier unless otherwise agreed;

18.1.24 not allow the removal or interference with any identification marks or plates affixed to a Vehicle without the prior written consent of the Supplier;

18.1.25 not allow the Vehicle to be defaced nor any painting, sign-

writing, lettering or advertising added to or erected on the

Vehicle without the prior written consent of Supplier;

18.1.26 make sure that only persons qualified to do so operate the Vehicle and that each operator holds any necessary permits, including a valid operator’s licence or a valid driving licence where appropriate;

18.1.27 stop using the Vehicle as soon as possible and contact the Supplier as soon as the Buyer becomes aware of any fault with or malfunction of the Vehicle. In particular, the Buyer must take into account any warning lights that may appear on the dashboard of the Vehicle;

18.1.28 ensure that the tread depth of each tyre on a Vehicle is checked regularly and that the Vehicle is not used when the tread depth reaches 3mm;

18.1.29 not allow to exist any lien nor assign mortgage pledge or otherwise deal with the Vehicle in a manner inconsistent with the Supplier's interest in the Vehicle;

18.1.30 allow the Supplier or its duly authorised representative to inspect the Vehicle at all reasonable times and, to enable the Supplier to do so. Unless clause 18.1.31 applies the Buyer must allow the Supplier entry to the Delivery Place or any premises at which the Vehicle may be located, and must grant reasonable access and facilities for such inspection;

18.1.31 if the Vehicle is located at premises with Restricted Access, make arrangements with the Supplier to collect the Vehicle from an alternative location which the Supplier is authorised and able to access;

18.1.32 the Supplier shall advise the Buyer of any mileage restriction at

Call-off otherwise mileage is assumed unrestricted;

18.1.33 in the event that the Supplier needs to arrange a Vehicle changeover during the Hire Period, the Supplier shall arrange for it to take place at the convenience of the Buyer. The Buyer shall endeavour to comply with any such request;

18.1.34 the Buyer shall maintain the interior and upholstery of the Vehicle, ensuring all minor spills and accidents are cleaned up appropriately.

## 19 Breakdown, Roadside Assistance and Damage

19.1 For Vehicle hire in the UK, the Supplier shall provide a comprehensive service for breakdown and roadside assistance 24 hours a day 365 days per year (366 days in a leap year) at no additional cost to the Buyer, unless due to driver negligence . For Vehicle hire overseas see clause 17.4.

19.2 Unless otherwise agreed with the Buyer in the Call-Off Contract the Supplier shall ensure that its Breakdown Assistance Provider attends the location of breakdown and roadside assistance calls within 2 hours of the request for assistance.

19.3 The Supplier shall prioritise breakdown and roadside assistance calls from drivers in vulnerable situations.

19.4 In the event of a breakdown or any other occurrence which renders the Vehicle immobile or otherwise unfit for use, the Supplier shall:

19.4.1 endeavour to provide a replacement Vehicle of at least the same standard within 2 hours of the request for assistance being made or a timeframe as agreed by the Buyer in the Call-Off Contract;

19.4.2 for Vehicles under 3.5 tonnes, ensure the driver and any passengers and cargo are taken to their requested destination; and

19.4.3 for Vehicles 3.5 tonnes and above, endeavour to provide onward travel for the driver, passengers and cargo.

19.5 The Supplier shall refund to the Buyer the difference between the cost of the replacement Vehicle and the Vehicle replaced where the former is from a lower group. The Buyer shall not be charged for the provision of a replacement Vehicle by the Supplier, unless it is determined by the Supplier that the Buyer and/or their representative are at fault for the breakdown event arising.

19.6 The Buyer should report any damage to the Supplier as soon as reasonably practicable.

19.7 In case of an accident or if the Vehicle is lost or stolen, the Buyer shall:

19.7.1 accurately report the accident, theft or loss to the Supplier as

soon as possible by any means and confirm this promptly in writing (email is sufficient) to the Supplier no later than 1 working day in case of a theft and in all other cases 2 working days, from the moment the Buyer becomes aware of the event;

19.7.2 report any theft or loss (or where appropriate, any accident) to the police as soon as reasonably possible and confirm this promptly in writing, along with the crime reference number, to the Supplier (email is sufficient);

19.7.3 avoid admitting responsibility to anyone in relation to the accident unless required to do so by legal process;

19.7.4 request the names and addresses of everyone involved, including witnesses, and provide them to the Supplier;

19.7.5 promptly forward to the Supplier any notices or other documents relating to any legal proceedings arising out of the accident, theft or loss;

19.7.6 cooperate with the Supplier and the Supplier’s insurers including

responding to requests for full and true information and provide assistance in any matters or legal proceedings including allowing proceedings to be brought by the Supplier in Buyer’s name and defending any proceedings brought against the

Buyer; and

19.7.7 return the original keys or any other device which unlocks the Vehicle and/or enables the Vehicle to be started to the Supplier either directly to the Supplier staff or in Supplier’s secured box at a Supplier branded location.

19.8 Unless otherwise agreed, the Buyer shall not repair, attempt to repair or have repaired any Vehicle (including the replacement of any tyres and windscreens). The Buyer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses and all other reasonable

professional costs and expenses suffered or incurred by Supplier where Supplier permission has not been granted.

19.9 The Supplier shall notify the Buyer of any damage to the Vehicle that the Supplier has reasonable grounds for believing has occurred during the Hire Period within 5 working days following the end of the Hire Period.

19.10 The Supplier shall include a full report of any damage to the Vehicle including photographic evidence detailing the Buyer’s liability within 60 working days of the end of the Hire Period.

19.11 The Supplier shall obtain a Vehicle Damage Assessment Report when requested by the Buyer and supply a copy of the report to the Buyer.

19.12 Where the Buyer accepts liability for damage, the Supplier shall add any costs associated with the relevant Vehicle Damage Assessor’s Report to the repair cost.

19.13 If the Buyer has reasonable grounds to dispute any Damage, it shall submit details of the dispute to the Supplier in writing within 30 days of the date of the damage notification.

19.14 Where any claim from a third party arises against the Supplier and the Supplier has reason to believe that the Buyer has liability for such claim, then the Supplier shall:

19.14.1 notify the Buyer of any such claim within 5 working days of the claim being received by the Supplier and provide the Buyer with full details of the claim with evidence of the Buyer’s liability; and

19.14.2 fully cooperate with the Buyer and insurer in responding to any such claim.

19.15 Where (i) a third party is responsible for any damage arising to the Vehicle, (ii) that third party has accepted full liability for that damage and (iii) the Buyer has provided to the Supplier all of the third party's details, including the third party's insurance details, where requested the Supplier must:

19.15.1 not pursue the Buyer for any payment; and

19.15.2 handle the claim, excluding any claim by the Buyer, directly through the third party's insurance or other representative;

19.16 The Buyer must keep the Supplier fully informed of all material matters relating to the Vehicle.

19.17 Where a Vehicle is declared a Total Loss, the Buyer will continue to be liable for the Charges for the Vehicle until the Supplier receives the Settlement Sum in full. When they receive the Settlement Sum, the Supplier must reimburse the Buyer all of the Charges paid by the Buyer between the Total Loss notification date and the date of receipt of the Settlement Sum.

19.18 Following notification of a Total Loss, the Buyer must pay as soon as reasonably practicable to the Supplier the Settlement Sum in respect of that Vehicle on the date specified in the advice of the same sent to the Buyer.

19.19 Where the sum received for the Vehicle from the Buyer’s insurance provider is less than the Settlement Sum, the Buyer is liable to pay to the Supplier the differential amount.

19.20 The Supplier may charge an administration fee to the Buyer to cover any reasonable costs incurred in the assessment of the Vehicle and the completion of any relevant documentation in relation to the Total Loss process.

## 20 Maintenance

20.1 The Supplier shall ensure that all repairs are in accordance with manufacturer’s recommendations and warranty stipulations.

20.2 Where requested, the Supplier shall endeavour to offer maintenance out of hours, at Buyer premises or at another location.

20.3 Subject to repairs and maintenance, the Supplier must make sure that Vehicle downtime is minimised and a replacement Vehicle is provided to reduce the impact on the Buyer and/or the driver.

20.4 The Buyer shall make the Vehicle available to the Supplier for the purposes of carrying out scheduled maintenance.

20.5 The Buyer shall regularly inspect the Vehicle condition during the Hire Period including checking and maintaining correct tyre pressures and wheel nuts, inspecting the Vehicle’s lights, glass bodywork and paint.

20.6 The Buyer shall adhere to any recommended routine Vehicle checks whilst in possession of the Vehicle.

20.7 The Supplier shall implement and operate a formal vehicle recall and fault rectification procedure for all Vehicles supplied pursuant to the Call-Off Contract including where the Buyer is in possession of a Vehicle:

20.7.1 when informed by the Supplier, the Buyer shall stop using any Vehicle which is subject to an immediate manufacturer recall and make it available for collection by the Supplier. For the avoidance of doubt the Buyer shall not be subject to a Rental Charge during this period of a collection charge.

20.8 The Supplier is responsible for arrangement and payment for:

20.8.1 routine servicing and maintenance of the Vehicle in accordance with manufacturer's recommendations; and

20.8.2 repair and replacement of parts including but not limited to tyres, exhausts and brakes.

20.9 The Supplier indemnifies the Buyer against all reasonable Losses incurred whilst the Vehicle is unavailable for use by the Buyer due to a Default.

20.10 Where required, the Supplier shall instruct the Buyer, providing the necessary guidance, if Vehicle maintenance and checks are required during the Hire Period. This may include regularly checking and adjusting as necessary engine oil levels, adblue, screen wash levels and coolant levels (as appropriate).

20.11 The Buyer shall report accurate odometer mileage readings to the Supplier if requested using an appropriate method of reporting. If the odometer of the Vehicle fails, the Buyer shall immediately deliver the Vehicle to the Supplier for repair and shall inform the Supplier of the dates upon which the odometer was not working.

20.12 If the odometer on any Vehicle ceases to function properly or if the manufacturer's seals on the odometer of any Vehicle is or has been interfered with, the Supplier shall be entitled to estimate the distance travelled by that Vehicle for the period for which the odometer has failed to function properly.

## 21 Insurance

21.1 The Supplier shall supply, upon request, the terms of its insurance cover to the Buyer where the Buyer is relying on the Supplier's insurance. The Buyer shall comply with the terms of the Supplier's insurance.

21.2 Unless otherwise stated by the Supplier’s insurance, no minimum age restriction on drivers shall apply to the supply of Vehicles for Hire. The Supplier shall notify the Buyer if the Supplier's insurance imposes a minimum age restriction on drivers prior to commencement of the Call-Off Contract.

21.3 The Buyer shall, unless relying on Crown Indemnity or using the Supplier’s insurance:

21.3.1 insure the Vehicle from the Actual Delivery Time and keep the Vehicle insured, unless a different time is agreed in the Call-Off Contract, until the earlier of:

21.3.1.1 the Actual Return Time, or;

21.3.1.2 six (6) Work Hours after the Due Return Time.

21.3.1.3 notwithstanding 21.3.1.1 and 21.3.1.2, If the Buyer fails to return the Vehicle by the Due Return Time then it shall insure the Vehicle until a new return time is agreed and from this point 21.3.1.1 or 21.3.1.2 shall apply.

21.3.2 insure the Vehicle to the full replacement value under a fully comprehensive policy of insurance in the name of the Buyer which insures against all liabilities required by the Road Traffic Act 1988 s. 145(3) and which is primary to any policy of the Supplier bearing endorsements recording the interest of the Supplier and any other persons the Supplier nominates as loss payee. The insurance policy may be subject to such uninsured amount (**"Excess"**) as may be applicable from time to time and the Buyer indemnifies the Supplier against any Losses up to the level of the Excess;

21.3.3 apply all money received in respect of such insurances in the repairing of damage to or in restoring or replacing the Vehicle;

21.4 Subject to the Buyer’s compliance with the Terms of this Call-Off Schedule

22 (Vehicle Hire Terms) and where the Buyer requests Collision Damage Waiver and third-party liability insurance in the Hire Form, the Supplier shall:

21.4.1 waive the Buyer’s liability for loss, damage or theft of the Vehicle, up to any excess amount indicated in the relevant rate schedule; and

21.4.2 ensure that use of the Vehicle is covered by the Supplier’s insurance as required by the Road Traffic Act 1988 or any other applicable insurance legislation in force in any country in which Equipment is operated with the permission of the Supplier subject to the terms and conditions of such policy.

21.5 If relying on Crown indemnity the Buyer shall:

21.5.1 meet any liabilities arising out of the use of the Vehicle required to be insured against by the Road Traffic Act 1988 s. 145(3) regardless of any insurance policy of the Supplier which may cover the same liability;

21.5.2 in the event of damage to, loss or theft of the Vehicle reimburse the Supplier for the cost of repair or replacement of the Equipment plus any other losses reasonably incurred by the Supplier as a result of the damage to, loss or theft of the Equipment, as per the Vehicle Damage Assessment Report.

21.6 The Supplier must update the motor insurance database (MID) or provide the appropriate data for the Buyer to manage this themselves in respect of the Vehicles at all times in order to meet the requirements of the EU Motor Insurance Directive.

## 22 Payment and Invoicing

22.1 The Supplier shall facilitate payment by the Buyer of the Rental Charges, Additional Charges and, where appropriate, Insurance Charges under a Call-Off Contract under any method agreed with the Buyer in the Hire.

22.2 The Supplier shall include as a minimum a unique order or booking reference and where requested provide additional supporting documentation in relation to the Charges applied.

22.3 The Supplier shall facilitate a change in the method of payment where requested to do so by the Buyer.

22.4 The Supplier shall not charge the Buyer any fees for the use of any payment method or for a change of payment method.

22.5 The Supplier shall have the ability to attribute the cost of each Hire to multiple cost centre codes for each Buyer.

22.6 The Supplier shall provide consolidated invoicing for all Lots where requested by the Buyer, typically on a monthly basis and comprising all Hires within the preceding period under the Call-Off contract.

## 23 Termination of A Hire

23.1 Without affecting any other right or remedy available to them, the Supplier can terminate the Hire of the Vehicle by giving written notice to the Buyer if:

23.1.1 the Buyer fails to pay an undisputed invoiced sum due under a Hire within 30 days of the date of the Reminder Notice;

23.1.2 there is a default of any terms in 18.1 of this Call-Off Schedule 22 - Vehicle Hire Terms by the Buyer which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 working days after being notified in writing to do so.

23.2 The Buyer may terminate a Hire without any Charge if the Vehicle is within its Hire Period or the Buyer complies with the cancellation terms where the Hire Period has not commenced, excluding the costs for conversions or modifications carried out on the Vehicle specifically at the Buyers request.

23.3 In the case of Vehicle Hire under Lots 3 and 4 the Supplier acknowledges and agrees that the Buyer may terminate the Hire by giving one working days’ notice. Under all other Lots Hire can be terminated by the Buyer without notice.

## 24 Consequences of Termination

24.1 Where the Hire of any Vehicle is terminated under the terms of the Call-Off Contract, the Supplier’s consent to the Buyer’s possession of the Vehicle will terminate. The Supplier can, by its authorised representatives, retake possession of the Vehicle and may enter the Delivery Place or any premises at which the Vehicle is located.

24.2 When a Hire is terminated and the Hire Period is thereby reduced from the period originally agreed, the Supplier may charge the Buyer at the rate applicable to the actual Hire Period in the Call-Off Schedule 5 - Pricing Details for any outstanding payments and may seek retrospective payment for the difference between the rate previously paid and the correct rate for all days from the commencement of the Hire Period.

# Annex A Hire Form Template

**[Buyer guidance:** This Hire Form Template, when completed and executed by both Parties, forms a Hire under a Call-Off Contract. A Hire can be completed and executed using an equivalent document or the online booking system. If an online booking system is used instead of signing as a hard-copy, the details below must be provided when confirming the Hire.

|  |  |
| --- | --- |
| HIRE REFERENCE: | **[Insert** Buyer’s Hire number] |
| DATE OF HIRE: | **[Insert** Date the Hire is placed] |
| THE BUYER: | **[Insert** Buyer’s name] |
| THE SUPPLIER: | [**Insert** name of Supplier] |
| THE DRIVER: | **[Insert** Driver’s name] |

THE DELIVERABLES

[**Buyer guidance**: Insert the details for the Vehicle and/or Equipment which are the subject of the Call-Off Contract. For example:

|  |  |  |
| --- | --- | --- |
| Vehicle: |  | [**Insert** Description of Vehicles] |
| Quantity: |  | [**Insert** Number of items] |
| Additional Deliverables: |  | [[**Insert** Description of any additional Equipment] |
| Delivery Place: |  | [**Insert** the address where the Vehicle is to be delivered by the Supplier / picked up by Buyer] |
| Collection place: |  | [**Insert** the address where the Vehicle is to be |

collected by Supplier / returned by Buyer]

HIRE PERIOD

The Hire Period shall be the period of **[Insert [ ]** time and date from the Actual Delivery Time until the Due Return Time which is **[Insert[ ]** time and date.

PRICE AND PAYMENT

Rental Charges payable by the Buyer[**Insert** amount payable (excluding VAT)]

Additional Charges payable by the Buyer **[Insert** amount payable by the Buyer (excluding VAT):

Insurance Charges payable by the Buyer [**Insert** amount payable (excluding VAT)]

**For and on behalf of the Buyer:**

|  |  |
| --- | --- |
| Name and Title |  |
| Signature |  |
| Date |  |

**For and on behalf of the Supplier:**

|  |  |
| --- | --- |
| Name and Title |  |
| Signature |  |
| Date |  |

# Annex B (Vehicle Types and Availability)



Call- Off Schedule 22

- Annex B - Vehicle Typ

# RM6265 Call-Off Schedule 24 (Car Share Hire Terms)

This document shall be applied to Car Share in Lot 5 and Car Share where applicable in Lot 1.

**Contents:**

1. Introduction
2. Definitions
3. Exclusion of certain Core Terms
4. Hires
5. Hiring Vehicles
6. Minimum Age of Vehicles
7. Hours of Service
8. Booking arrangements for Hires
9. Delivery
10. Collection
11. Fuels
12. Title, Possession and Risk
13. Documentation
14. Fines and Penalties
15. Taking Vehicles Overseas
16. Limits of Use
17. Breakdown, Roadside Assistance and Damage
18. Maintenance
19. Insurance
20. Payment and Invoicing
21. Termination of a Hire
22. Consequences of Termination

Annex A - Hire Template

## 1. Introduction

1.1 The Buyer has decided to hire Vehicles under the Framework Contract using Framework Schedule 7 (Call-Off Award Procedure) and has stated its requirement using Framework Schedule 6 - Order Form Template, specified Joint Schedules and Call-Off Schedules, this Call-Off Schedule 24 (Car Share Hire Terms) including Annex A - Hire Template and the Core Terms.

1.2 The Buyer’s attention is drawn to clauses 9, 10, 11, 12, 14, 15, 16 and 17 of this Schedule which it may wish to bring to the attention of drivers of Vehicles in order to avoid breaches of the Hire terms. The remaining clauses primarily address the Call-Off Contract level relationship and formation of Hires incorporating the terms set out in clause 1.1.

## 2. Definitions

2.1 In this Schedule, the following words shall have the

following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **“Access Cards”**    **"Actual Delivery Time"**    **“Actual Return Time”** | is an individual card or digital solution, for example via an App, that allows a driver access to Car Share Vehicles, whether Buyer or Supplier owned;  the time and date on which a Vehicle is delivered to the Buyer;  the time and date on which a Vehicle is actually returned to, or collected by the Supplier; |
| **"Additional Charges"**      **“Breakdown Assistance Provider”** | the amounts so specified in Call-Off Schedule 5 (Pricing Details) or a Hire relating to all items except  Rental Charges and Insurance Charges;  any third party which the Supplier uses, to provide breakdown and roadside assistance services to the Buyer whether in the UK or overseas; |

**“Buyer’s Hire Policy”**

**“Car Share”**

**“Car Share Dedicated Vehicles”**

**“Car Share Mixed Use Vehicles”**

**“Car Share Publicly Accessible Vehicles”**

**“Car Share Technology Only”**

**“Crown Indemnity”**

## “Collision Damage Waiver”

a document that outlines the guidelines, rules and behaviours relating to the use of hired vehicles by employees of the Buyer;

the provision of vehicle hire for which Buyers use a booking system with the capability to reserve Vehicles for hourly periods rather than a whole day or longer. This includes Car Share Dedicated Vehicles, Car

Share Mixed Use Vehicles and Car Share Publicly

Accessible Vehicles;

Car Share Vehicles kept at the Buyer’s location which are for exclusive use by the Buyer or, if requested by the Buyer, shared with other organisations which are in close proximity to the Buyer’s location;

Car Share Vehicles which are for the Buyer's exclusive use during an agreed period during working hours. Outside of the agreed period, the Supplier may make the Vehicles available to the general public;

Car Share Vehicles available through the Supplier’s Car Share network which are not solely reserved for a single Buyer but can be hired by anyone with Car Share membership. Vehicles can be rented by the hour and rental durations are capped at a single whole day rate; the provision of standalone Equipment offered by the Supplier to allow the Buyer’s own fleet vehicles, whether owned outright or leased, to be reserved through the Supplier’s online booking system and facilitate the reporting of Management Information on the use of these vehicles where the Buyer is its own insurer;

the waiver by the Supplier of the Buyer's liability for theft, loss or damage to the Equipment, subject to the excess stated in Call-Off Schedule 5 (Pricing Details);

|  |  |
| --- | --- |
| **“Daily Rental”** | daily rental of Vehicles under a Call-Off Contract excluding any Car Share Vehicles; |
| **“Delivery location”** | the location or place for delivery specified in the Hire; |
| **“Due Delivery Time”** | the time and date for delivery specified in the Hire; |
| **"Due Return Time"**    **“Equipment"** | ithe time and date so specified in the Hire for return or collection;  those devices, machines, tools, technology including Car Share Technology Only set out in Framework  Schedule 1 - Specification or as described in the Call-  Off Contract; |
| **“Fuel Cards”**    **“Hire”** | means credit cards or prepayment cards that can only be used for purchasing fuel;  an agreement specifying the Vehicles and Equipment that the Buyer will hire from the Supplier under the Call-Off Contract when needed which the Buyer will detail using the online booking system or an equivalent form as agreed by the Parties from time to time; |
| **"Hire Period"** | in relation to a Vehicle, the period commencing at the Actual Delivery Time for that Vehicle and ending at the Actual Return Time for that Vehicle unless extended or terminated early in accordance with this Call-Off Contract; |
| **“Insurance Charges”**    **"Net Book Value"** | the amounts so specified in Call-Off Schedule 5 (Pricing Details) or a Hire relating to insurance;  the value of a Vehicle from time to time being its purchase price (excluding any applicable Road Fund Licence) less an amount equal to the depreciation of the Vehicle, calculated on a straight-line basis, at the time a valuation is made;; |
| **“Out of Hours”**    **"Rental Charges"** | means hours outside of 08.00-18.00 Monday to Friday, 09.00 to 12.00 Saturday and Bank Holidays in the UK;  the amount specified in the Call-Off Contract to be paid by the Buyer to the Supplier for hire of a Vehicle(s); | |
| **“Settlement Sum”** | for any Vehicle, the aggregate of:   1. any Charges due but unpaid up to the date of termination; and 2. the Total Loss value; and 3. any difference between the Total Loss value and the present worth of the asset, represented by the Net Book Value as calculated by the Supplier less   any monies actually received and retained by the Supplier as payment from the Buyer or Buyer's insurers for the Total Loss    any event which, in the opinion of the insurers of the Vehicle renders the Vehicle incapable of economic repair if it is lost, stolen, damaged or destroyed; | |
| **"Total Loss"** |
| **“Vehicle”** | means those vehicles as described in the Hire;  the individual period of use of the Vehicle by a driver during the Hire Period.    means a report estimating Vehicle damage resulting from accidents or similar incident circumstances produced by an ATA (Automotive Technician  Accreditation) registered source; | |
| **“Vehicle Booking”**      **“Vehicle Damage** |
| **Assessment Report”** |

**“Vehicle Inspection** is the form either paper or electronic copy that shall be

**Form”** provided by the Supplier with the Vehicle at the commencement of the Hire Period which details information on the condition of the Vehicle, the mileage and level of fuel.

## 3 Exclusion of certain Core Terms

3.1 When the Parties have entered into a Call-Off Contract which incorporates the Call-Off Schedule 24 - Car Share Hire Terms, the following Core Terms are modified in respect of the Call-Off Contract (but are not modified in respect of the Framework Contract):

3.1.1 Clause 3.1.2 does not apply to the Call-Off Contract;

3.1.2 Clause 3.2 does not apply to the Call-Off Contract;

3.1.3 Clause 8.7 does not apply to the Call-Off Contract;

## 4 Hires

4.1 Each Hire is subject to, and incorporates these Call-Off Schedule 24 - Car Share Hire Terms, so that no other terms and conditions under any quotation, confirmation of order, delivery note, invoice or similar document are part of the Hire.

4.2 The Parties agree that any other terms and conditions (whether or not inconsistent with the terms of the Call-Off Contract) contained or referred to in any correspondence or any documentation submitted by the Supplier which is not part of the Framework Contract or which are elsewhere implied by custom, practice or course of dealing do not apply.

4.3 The Supplier must send a confirmation of the Hire to the Buyer by electronic means (or by any other method as the Parties may agree from time to time) to the Customer within 2 hours, and the confirmation will confirm the Hire details including:

4.3.1 a description of the Vehicle(s) ordered and agreed cost;

4.3.2 details of any additional extras ordered;

4.3.3 the delivery and collection details.

4.4 The Supplier warrants that the Vehicle conforms to the Hire, is of satisfactory quality and fit for any purpose held out by the Supplier.

4.5 If requested by the Buyer, the Supplier shall provide a designated administration account with access to view Hire and account activity.

4.6 Each Hire survives the expiration or termination of both the Call-Off Contract and Framework Contract.

4.7 The Supplier shall not refuse to accept any Hires for Car Shares except in respect of Publicly Accessible Vehicles where it is recognised that availability is affected by the demand of other users.

## 5 Hiring Vehicles

5.1 In consideration of the payment of the Rental Charges, Additional Charges and Insurance Charges, the Supplier will supply the Vehicle to the Buyer in accordance with the Call-Off Contract and the requirements notified to the Supplier in the Hire.

5.2 The Supplier shall advise the Buyer on the selection and specification of the Vehicle to ensure that the Vehicle is suitable for the requirements of the Buyer.

5.3 Car Share membership and Access Cards for drivers are to be provided free of charge.

5.4 The Supplier shall agree with the Buyer a process for the registration and management of a driver’s membership (e.g. new employees, memberships cancellations etc.) in the Call-Off Contract. No employee will become a member of a car share network until such time as the Supplier accepts the employee’s registration.

5.5 All memberships will continue until the Call-Off Contract is terminated, unless otherwise agreed between the Supplier and the Buyer. The Buyer shall notify the Supplier in the event that a member ceases to be an employee of the Buyer at which point that member’s membership shall be terminated.

5.6 The Supplier shall not restrict the use of a driver unless agreed with the Buyer due to the driver’s conduct contravening the terms of insurance and/or the Call-off Contract.

5.7 The Supplier shall provide Management Information reports which include information such as utilisation details; trip data by driver and Vehicle, cost centre and department. Management Information fields shall be set out in the Call-Off Contract.

5.8 For Car Share Publicly Accessible Vehicles, the Supplier shall charge Buyers Rental Charges by 15 minute increments prorated at the hourly rate.

5.9 For Car Share Publicly Accessible Vehicles, Car Share Dedicated Vehicles and Car Share Mixed Use Vehicles the Rental Charge excludes insurance, fuel/mileage and congestion charge notwithstanding 5.10 below.

5.10 For Car Share Publicly Accessible Vehicles, Transport for London congestion charges are included in London rates where the hire starts inside the congestion charge zone as shown in Call-Off Schedule 5 - Pricing Details. Where a Vehicle starts its journey outside the congestion charge zone, the Buyer is responsible for paying the charge should it enter the congestion charge zone.

5.11 Suppliers may specify a maximum mileage per booking at Call-Off Contract level and apply an additional charge if the Buyer exceeds it.

5.12 The Supplier shall not charge the Buyer or the driver any charge except for the Rental Charges, Additional Charges and Insurance Charges specified in Call-Off Schedule 5 - Pricing Details.

5.13 Unless otherwise agreed, for Car Share Dedicated Vehicles the Buyer shall provide a designated parking space for each Vehicle free of charge. Parking spaces must have adequate mobile phone signal and shall be easily accessible and clearly visible at the location specified in the Call-Off Contract. The respective parking space may only be used by the Vehicle assigned to it.

5.14 For Car Share Dedicated Vehicles, unless otherwise agreed, the Buyer will bring the Vehicle back to its designated parking space at the end of the Hire Period and in the same condition as it was at the beginning of the Hire Period.

5.15 For Car Share Dedicated Vehicles, the Supplier shall be entitled at its sole discretion to replace any Vehicle provided to the Buyer at any time with another Vehicle within the same Vehicle group upon giving the Buyer not less than 7 calendar days’ prior written notice.

5.16 For Car Share Technology Only, the Supplier shall:

5.16.1 install Equipment to make the Buyer’s own vehicles available to book alongside the Supplier’s Car Share Vehicles via the Supplier’s Car Share online booking system and enable all Car Share features such as keyless Vehicle entry and Vehicle and trip data capture for Management Information. The installation of the Car Share Technology Only Equipment cost will be priced at CallOff Schedule 5 - Pricing Details.

5.16.2 for the Buyer’s own vehicles where Equipment has been installed, provide a full membership service to the Buyer identical to the Supplier’s Car Share Vehicles as part of monthly management information and continue to enable all Car Share features. The Buyer shall pay a monthly Charge per Vehicle for these ongoing Deliverables as shown in Call-Off Schedule 5 - Pricing Details;

5.16.3 ensure that the Equipment shall not cause any damage to the

Buyer’s own vehicles either on installation or removal; and

5.16.4 if agreed with the Buyer, at no extra cost, offer monitoring of the Buyer’s own vehicles to include low battery, telephoning the relevant driver in the event of a late return and liaising with any driver with a subsequent reservation affected by the aforementioned late return of a Buyer’s own vehicle.

5.17 For Car Share Technology Only, the Buyer will inform the Supplier if its own vehicle is to be made unavailable for bookings by drivers.

5.18 For monthly pricing in Car Share Dedicated Vehicles and Car Share Mixed Use the Supplier shall consider one month to be equivalent to 28 days only and not a full calendar month. As such there would be thirteen payment periods in a year.

## 6 Minimum Age of Vehicles

6.1 From the commencement of the Hire Period, and unless otherwise agreed with the Buyer in the Call-Off Contract, the following Vehicle age limits shall apply:

6.2 All cars supplied shall be less than 3 years old from the date of first registration.

6.3 All vans supplied shall be less than 5 years old from the date of first registration

6.4 All minibuses supplied shall be less than 4 years old from the date of registration.

## 7 Hours of Service

7.1 The Supplier shall ensure that its operating hours in relation to the provision of the Deliverables in the UK shall be within the hours of 08:00 to 18:00 Monday to Friday and 09:00 to 12:00 Saturday excluding Bank Holidays.

7.2 The Supplier shall provide an Out of Hours emergency contact number chargeable at a local rate in the event of the Buyer requiring breakdown or roadside assistance.

## 8 Booking arrangements for Hires

8.1 The Supplier shall allow the Buyer to book Hires through a secure online booking system and an application.

8.2 The Supplier online booking system shall as a minimum have the facility to collect information about multiple drivers.

8.3 The Supplier shall, where required, provide training in the use of the online booking system.

8.4 The Supplier shall provide the Buyer with a single unique reference number at the time the Hire is booked. This shall be used in all correspondence relating to the Vehicle, including invoicing, Management Information and Data reports delivered to the Buyer as set out in Call-Off Schedule 1 - Transparency Reports.

8.5 If the Supplier becomes aware that a booked Vehicle will not be in its agreed location at the start of a Hire Period, the Supplier shall endeavour to provide an alternative Vehicle.

8.6 If an upgrade to a different Vehicle group is provided the Rental Charge applicable to the Vehicle group originally booked by the Buyer shall apply.

8.7 If an upgrade to a different Vehicle group is not available and a Vehicle from a lower group is provided, the Rental Charge from the lower group shall apply.

8.8 The Supplier shall not unreasonably refuse to accept any Hires.

8.9 Where requested by the Buyer before the Call-Off Contract commences, the Supplier shall use the Buyer’s or a third party’s online booking system.

The Supplier shall provide electronic access to receive Hire from the Buyer or third party (subject to entering into a code of connection agreement which shall be subject to a separate charge to be agreed with the Buyer before the Call-Off Contract commences).

## 9 Delivery

9.1 For Car Share Dedicated Vehicles and Car Share Mixed Use Vehicles, the Supplier shall supply the Vehicle to the Delivery Place at or before the Due Delivery Time. The Supplier shall provide the Buyer with all relevant information to allow the Buyer to become familiar with the Vehicle's operation including the type of fuel used.

9.2 The Supplier shall be entitled to an abortive delivery charge which shall not exceed one day's Rental Charge where delivery is attempted when a Buyer has neglected to cancel a Hire which includes delivery.

9.3 If specialist Equipment is provided with the Vehicle, the Supplier must provide the Buyer with the appropriate familiarisation awareness training necessary to safely, legally and effectively operate the Vehicle.

9.4 Prior to the start of the Hire Period the driver shall inspect the Vehicle and inform the Supplier of any damage or defects.

9.5 The Buyer can at its sole discretion reject a Vehicle which is not as described in the Hire and/or in respect of which the Vehicle Inspection Form does not include the required information. Where the Buyer rejects a Vehicle the Supplier shall provide a suitable replacement within a timescale to be agreed with the Buyer. Where there is minor damage to the vehicle which has not been noted on the Vehicle Inspection Form, and the Buyer considers the Vehicle fit to drive, it must first inform the Supplier of the damage and obtain approval before driving the Vehicle.

9.6 In the event that a Hire needs to be cancelled on Publicly Accessible Vehicles, the Buyer shall notify the Supplier, at least 5 hours over a working day prior to the commencement of the Hire Period unless otherwise agreed. If the Buyer fails to do so the Supplier may charge a cancellation cost as shown in Call-Off Schedule 5 - Pricing Details.

9.7 The Supplier shall notify the Buyer at the time of cancellation of any Charge that shall be incurred.

## 10 Collection and Return

10.1 For Car Share Dedicated Vehicles and Car Share Mixed Use Vehicles at the end of the Hire Period, the Supplier shall immediately complete a Vehicle Inspection Form.

10.2 For Car Share Dedicated Vehicles and Car Share Mixed Use Vehicles at the end of the Hire Period, the Supplier shall collect the Vehicle after the Due Return Time unless otherwise agreed with the Buyer.

10.3 The Supplier shall be entitled to an abortive collection charge which shall not exceed one day's Rental Charge where a Vehicle is not available for collection following a waiting time of 29 minutes.

10.4 As listed within Call-Off Schedule 5 - Pricing Details, the following late return Charges shall apply:

10.4.1 for Car Share Mixed Use Vehicles the penalty for a late return by

a Buyer’s driver after the end of the agreed period of exclusive use each day;

10.4.2 for Car Share Publicly Accessible Vehicles the penalty for late return after the end of any Hire Period and;

10.4.3 the payment to be made by the Supplier to the Buyer for nonavailability of Vehicles due to non-return by third parties.

In relation to 10.4.1 and 10.4.2, Additional Charges shall continue to be incurred every hour as well as the standard Rental Charges following the Due Return Time until the Vehicle is returned by the Buyer or collected by the Supplier.

10.5 At the end of the agreed period for the handover to public usage in Car Share Mixed Use Vehicles and for Car Share Publicly Accessible Vehicles, the Supplier may allow the Buyer to return the Vehicle to an agreed location different from their collection place with prior notification from time to time.

10.6 The driver shall remove all personal possessions from the Vehicle at the end of a Hire Period. The Supplier does not accept any responsibility for any possessions that are left in a Vehicle.

10.7 For Car Share Technology Only, upon request by the Buyer or following termination or expiry of the Call-Off Contract, and unless otherwise agreed, the Equipment will be removed by the Supplier authorised personnel within one week.

10.8 The Buyer shall use all reasonable endeavours to ensure Buyer’s vehicles are available to have Equipment removed during the one week period referred to in 10.7.

## 11 Fuels

11.1 The Supplier shall provide the option of Fuel Cards or other refuelling methods for Car Share Vehicles. Where Fuel Cards are used, the Supplier shall provide a detailed report on the use of the Fuel Cards each Month. The Supplier may charge the Buyer a set mileage rate per mile depending on the fuel train of the Vehicle instead of charging for fuel where agreed with the Buyer.

11.2 If the Supplier charges for fuel not mileage, it shall charge refuelling for petrol and diesel in line with a published weekly/monthly fuel price index to be agreed at Call-Off Contract, plus the Supplier’s additional pence per litre

refuelling charge. Such indices include UK government

[(www.gov.uk/government/collections/energy-price-statistics)](http://www.gov.uk/government/collections/energy-price-statistics), Allstar/Fleet News ([https://www.allstarcard.co.uk/tools/uk-fuel-prices/)](https://www.allstarcard.co.uk/tools/uk-fuel-prices/), AA (https://www.theaa.com/driving-advice/driving-costs/fuel-prices). The Supplier shall charge electric recharging in line with the cost per KwH as defined in a suitable index or as agreed in the Call-Off Contract.

11.3 The Supplier shall be entitled to charge the Buyer an Additional Charge for Car Share Publicly Accessible Vehicles returned with less than a quarter tank of fuel and for electric Vehicles not correctly plugged in to their charge points.

11.4 For Car Share Publicly Accessible electric Vehicles no charging cost shall apply to the Buyer. The Supplier shall provide in the Vehicle an RFID charge card to operate the charge post allocated to the Vehicle, instructions on how to plug-in and charge the Vehicle and the necessary cable.

11.5 If clear identification of the type of fuel is not shown at the filling point, the Buyer shall not be liable if the Vehicle is re-fuelled with the wrong fuel type. Where the Buyer incorrectly refuels the Vehicle and informs the Supplier, the Supplier shall arrange for the Vehicle to be repaired.

## 12 Title, Possession and Risk

12.1 The Vehicle is the property of the Supplier at all times and the Buyer will not have any right, title or interest in or to the Vehicle apart from the right to possess and use the Vehicle in accordance with the Call-Off Contract.

12.2 Subject to clause 12.7 the Supplier’s liability for loss or damage to the Vehicle ceases at the Actual Delivery Time.

12.3 For Car Share Dedicated Vehicles, the Supplier’s liability for loss or damage to the Vehicle shall, unless a different time is agreed in the Call-Off Contract, commence again at the earlier of:

12.3.1 the Actual Return Time, or;

12.3.2 six (6) hours over a Working Day after the Due Return Time;

12.3.3 Notwithstanding clauses 12.3.1 or 12.3.2 If the Buyer fails to return the Vehicle by the Due Return Time then it remains liable for loss or damage to the Vehicle until a new return time is agreed and the provisions of clauses 12.3.1 or 12.3.2 shall apply.

12.4 For Publicly Accessible Vehicles, the Supplier’s liability for loss or damage to the Vehicle shall, unless a different time is agreed in the Call-Off Contract, commence again at the earlier of:

12.4.1 the commencement of the next Hire Period, or;

12.4.2 the Supplier inspection of the Vehicle, notwithstanding any incidents which occur between the Buyer returning the Vehicle and either clauses 12.4.1 and 12.4.2 for which the Buyer would not be liable.

12.5 For Car Share Mixed Use Vehicles the Supplier’s liability for loss or damage to the Vehicle shall, unless a different time is agreed in the Call-Off Contract, commence again at the end of the agreed period for exclusive use, reverting back to the Buyer at the commencement of the next agreed period for exclusive use.

12.6 The Hire Period for the Vehicle starts at the Due Delivery Time or the Actual Delivery Time, whichever is the later.

12.7 Unless the Buyer notifies non-acceptance of a Vehicle, the Buyer bears the risk of loss or damage to the Vehicle from the time the Supplier’s liability ceases until the time the Supplier’s liability recommences under clauses 12.3 and 12.4. The Buyer does not bear the risk of loss or damage:

12.7.1 caused by the negligence of the Supplier or Supplier Staff; or

12.7.2 while the Supplier has possession of the Vehicle, including for any maintenance.

12.8 The Supplier shall give the Buyer quiet possession of the Vehicle throughout the Hire Period.

12.9 The Buyer shall take reasonable steps at its own expense to retain and recover possession and control of a Vehicle of which an individual driver has caused this to be compromised, for example but not limited to a vehicle being abandoned.

12.10 The Supplier may not own, control or maintain the land on which Publicly Accessible Vehicles are parked and, as such, is not liable for the condition of the parking spaces.

12.11 For Car Share Technology Only, the Equipment installed within the Buyer vehicles remains the property of the Supplier at all times.

12.12 For Car Share Technology Only, the Buyer shall be liable to the Supplier for any damage to or loss of the Equipment throughout the hire.

## 13 Documentation

13.1 At the commencement of the Call-Off Contract, the Supplier shall provide the Buyer with the Supplier’s standard documentation, with all the relevant details completed, consisting of as a minimum:

13.1.1 details of the action to be taken in the event of an incident (including windscreen or tyre damage), accident or breakdown including contact details;

13.1.2 a Vehicle Inspection Form where appropriate for Car Share Dedicated Vehicles and Car Share Mixed Use Vehicles.

## 14 Fines and Penalties

14.1 For road traffic offences where licence endorsements apply such as speeding tickets, the Supplier shall collaborate with the Buyer to identify and inform the driver and notify the penalties clerk by providing a copy of the Hire. The penalties clerk will in turn redirect the fine to the responsible driver.

14.2 The Supplier shall provide the Buyer with full details of any penalties received within 5 working days of receipt from the relevant authorities.

14.3 The Supplier shall be liable for any additional costs arising from escalations to the original penalty or charge if they have failed to notify the Buyer within 5 working days following receipt of the penalty or charge.

14.4 Unless agreed otherwise by the Buyer, for road traffic offences where licence endorsements do not apply such as congestion charges, bus lane charges, parking tickets, the Supplier shall pay the fine on the Buyer’s behalf then recharge the Buyer using applicable supporting documentation as evidence. If the fine is later successfully challenged by the Buyer, the Supplier shall pass on any refund in full to the Buyer.

14.5 The Supplier may charge the Buyer a reasonable administration fee for dealing with any penalties incurred by the Buyer.

14.6 Where the Buyer notifies the Supplier that the Vehicle shall be driven in an area subject to a congestion charge, or other automated toll charges, then the Supplier shall (where possible) provide the Buyer with advanced notification of the Vehicle registration number or if the Vehicle carries an exemption.

## 15 Taking Vehicles Overseas

15.1 The Buyer shall not take or allow any Vehicles to be taken out of the mainland United Kingdom.

## 16 Limits of Use

16.1 While a Vehicle is in its possession, the Buyer shall:

16.1.1 only allow use of the Vehicle for the purpose for which it is intended and not for the driver’s personal use;

16.1.2 ensure all drivers hold a valid driver’s licence;.

16.1.3 ensure responsible and safe use of the Vehicle and adhere to any explicit Supplier recommendations or guidance given;

16.1.4 not allow the Vehicle to be driven in a careless or reckless manner;

16.1.5 keep the Vehicle in its own control and look after the Vehicle ensuring it is locked and secure all of its parts when not in use;

16.1.6 not do or allow anything to be done which could invalidate the insurances referred to in paragraph 19;

16.1.7 not allow the Vehicle to be used, or permit its use in any manner

which would infringe any statutory regulation or order relating to the driving and parking of the Vehicle or so as to cause danger to the public or persons in the Vehicle or risk damage to the

Vehicle;

16.1.8 not allow the Vehicle to be driven by any other driver who has not been first authorised by Buyer;

16.1.9 not allow the Vehicle to be used by anyone other than registered members working for the Buyer;

16.1.10 not allow the Vehicle to be used while any driver is under the influence of alcohol, narcotics, drugs, or any other substance impairing their consciousness or ability to react;

16.1.11 not cause injury, loss or damage to property or person for any illegal, wilful or deliberate purpose;

16.1.12 not allow smoking or the use of e-cigarettes in the Vehicle;

16.1.13 not allow the Vehicle to be driven in or on that part of any aerodrome, airfield, airport or military installation designed for the take-off, landing, taxiing or parking of aircraft and aerial devices, including any associated service roads, fuel supply areas, ground equipment parking areas, aprons, maintenance zones and hangars (unless the Supplier provides prior written consent for Buyer to do so);

16.1.14 not allow the Vehicle to be driven for racing, pacemaking, testing the Vehicle’s reliability and speed or teaching someone to drive;

16.1.15 not allow the Vehicle to be used off road unless explicitly agreed

with the Supplier, nor on racetracks, beaches, and test courses without the prior written consent of the Supplier;

16.1.16 not allow the Vehicle to be used for any form of sub-hire; or reward activities, including any form of sporting competition, unless agreed by the Supplier;

16.1.17 not allow the Vehicle to be used to drive through water or over any objects that the driver knew or ought to have known rise above the ground clearance of the Vehicle;

16.1.18 not allow the Vehicle to be driven under a barrier lower than the overhead clearance of the Vehicle;

16.1.19 not allow the Vehicle to be used for motor trade use;

16.1.20 not allow the Vehicle to be used for the transportation of explosives, chemicals, corrosives or other hazardous materials or pollutants of any kind or nature except as allowable under law to transport dangerous or noxious substances;

16.1.21 not allow the Vehicle to be used to carry any goods, materials or produce which may damage the Vehicle or render it unfit to carry any other type of merchandise, or which may be hazardous or harmful to humans or other living beings;

16.1.22 not allow the Vehicle to propel or tow any other vehicle or a tow truck, unless otherwise agreed with the Supplier;

16.1.23 not allow the Vehicle to be overloaded with more passengers than seatbelts or to transport children without the legally required car seats;

16.1.24 not allow the Vehicle to be overloaded or used to transport goods with a weight heavier than that authorised for the Vehicle, or to transport goods deficiently distributed or badly secured, or to carry goods that the Buyer does not own for a fee without the

Supplier's written permission;

16.1.25 not allow any mechanical modification or other modification,

alterations or additions to be made to a Vehicle, nor fit any towing equipment, other accessories or non-standard tyres without the Supplier’s prior written consent. Any additions, alterations or modified parts which may be made or incorporated

(whether with or without consent) shall become part of the

Vehicle and shall belong to the Supplier unless otherwise agreed;

16.1.26 For Car Share Technology Only, the Buyer shall not permit any other party to tamper with or modify the Equipment without prior written authorisation from the Supplier;

16.1.27 not allow the removal or interference with any identification marks or plates affixed to a Vehicle without the prior written consent of the Supplier;

16.1.28 not allow the Vehicle to be defaced nor any painting, sign-

writing, lettering or advertising added to or erected on the

Vehicle without the prior written consent of Supplier;

16.1.29 make sure that only persons qualified to do so operate the Vehicle and that each operator holds any necessary permits, including a valid operator’s licence or a valid driving licence where appropriate;

16.1.30 stop using the Vehicle as soon as possible and contact the Supplier as soon as the Buyer becomes aware of any fault with or malfunction of the Vehicle. In particular, the Buyer must take into account any warning lights that may appear on the dashboard of the Vehicle;

16.1.31 ensure that the tread depth of each tyre on a Vehicle is checked regularly and that the Vehicle is not used when the tread depth reaches 3mm;

16.1.32 not allow to exist any lien nor assign mortgage pledge or otherwise deal with the Vehicle in a manner inconsistent with the

Supplier's interest in the Vehicle;

16.1.33 allow the Supplier or its duly authorised representative to inspect the Vehicle at all reasonable times and, to enable the Supplier to do so. Unless clause 16.1.34 applies the Buyer must allow the Supplier entry to the Delivery Place or any premises at which the Vehicle may be located, and must grant reasonable access and facilities for such inspection;

16.1.34 If the Vehicle is located at premises with restricted access, make arrangements with the Supplier to collect the Vehicle from an

alternative location which the Supplier is authorised and able to access;

16.1.35 adhere to any mileage restrictions agreed with the Supplier at Call-Off Contract and otherwise mileage is assumed unrestricted;

16.1.36 endeavour to comply with any request during the Hire Period from the Supplier to arrange a Vehicle changeover provided it is at the Buyer’s convenience; and

16.1.37 maintain the interior and upholstery of the Vehicle, ensuring all minor spills and accidents are cleaned up appropriately.

## 17 Breakdown, Roadside Assistance and Damage

17.1 For Vehicle hire in the UK, the Supplier shall provide a comprehensive service for breakdown and roadside assistance 24 hours a day 365 days per year (366 days in a leap year) at no additional cost to the Buyer, unless due to driver negligence.

17.2 Unless otherwise agreed with the Buyer in the Call-Off Contract, the Supplier shall ensure that its Breakdown Assistance Provider attends the location of breakdown and roadside assistance calls within 2 hours of the request for assistance.

17.3 The Supplier shall prioritise breakdown and roadside assistance calls from drivers in vulnerable situations.

17.4 In the event of a breakdown or any other occurrence which renders the Vehicle immobile or otherwise unfit for use, the Supplier shall:

17.4.1 endeavour to provide a replacement Vehicle of at least the same standard excluding Car Share Technology, within 2 hours of the request for assistance being made or a timeframe as agreed by the Buyer in the Call-Off Contract;

17.4.2 for Vehicles under 3.5 tonnes, ensure the driver and any passengers and cargo are taken to their requested destination

17.5 The Supplier shall refund to the Buyer the difference between the cost of the replacement Vehicle and the Vehicle replaced where the former is from a lower group. The Buyer shall not be charged for the provision of a replacement Vehicle by the Supplier, unless it is determined by the Supplier that the Buyer and/or their representative are at fault for the breakdown event arising.

17.6 The Buyer should report any damage to the Supplier as soon as reasonably practicable.

17.7 In case of an accident or if the Vehicle is lost or stolen, the Buyer shall:

17.7.1 accurately report the accident, theft or loss to the Supplier as

soon as possible by any means and confirm this promptly in writing (email is sufficient) to the Supplier no later than 1 Working Days in case of a theft and in all other cases 2 Working

Days, from the moment the Buyer becomes aware of the event;

17.7.2 report any theft or loss (or where appropriate, any accident) to the police as soon as reasonably possible and confirm this promptly in writing, along with the crime reference number, to the Supplier (email is sufficient);

17.7.3 avoid admitting responsibility to anyone in relation to the accident unless required to do so by legal process;

17.7.4 request the names and addresses of everyone involved, including witnesses, and provide them to the Supplier;

17.7.5 promptly forward to the Supplier any notices or other documents relating to any legal proceedings arising out of the accident, theft or loss;

17.7.6 cooperate with the Supplier and the Supplier’s insurers including

responding to requests for full and true information and provide assistance in any matters or legal proceedings including allowing proceedings to be brought by the Supplier in Buyer’s name and defending any proceedings brought against the

Buyer; and

17.7.7 return the original keys or any other device which unlocks the Vehicle and/or enables the Vehicle to be started to the Supplier either directly to the Supplier staff or in Supplier's secured box at an Supplier branded location.

17.8 Unless otherwise agreed, the Buyer shall not repair, attempt to repair or have repaired any Vehicle (including the replacement of any tyres and windscreens). The Buyer shall be liable to the Supplier for all liabilities, costs, expenses, damages and losses and all other reasonable professional costs and expenses suffered or incurred by Supplier where Supplier permission has not been granted.

17.9 The Supplier shall notify the Buyer of any damage to the Vehicle that the Supplier has reasonable grounds for believing has occurred during the Hire Period within 5 Working Days from the end of the Hire Period.

17.10 The Supplier shall include a full report of any damage to the Vehicle including photographic evidence detailing the Buyer’s liability within 60 Working Days of the end of the Hire Period.

17.11 The Supplier shall obtain a Vehicle Damage Assessment Report when requested by the Buyer and supply a copy of the report to the Buyer.

17.12 Where the Buyer accepts liability for damage, the Supplier shall add any costs associated with the relevant Vehicle Damage Assessor’s Report to the repair cost.

17.13 If the Buyer has reasonable grounds to dispute any damage, it shall submit details of the dispute to the Supplier in writing within 30 calendar days of the date of the damage notification.

17.14 Where any claim from a third party arises against the Supplier and the Supplier has reason to believe that the Buyer has liability for such claim, then the Supplier shall:

17.14.1 notify the Buyer of any such claim within 5 Working Days of the claim being received by the Supplier and provide the Buyer with full details of the claim with evidence of the Buyer’s liability; and

17.14.2 fully cooperate with the Buyer and insurer in responding to any such claim.

17.15 Where (i) a third party is responsible for any damage arising to the Vehicle, (ii) that third party has accepted full liability for that damage and (iii) the Buyer has provided to the Supplier all of the third party's details, including the third party's insurance details, where requested the Supplier must:

17.15.1 not pursue the Buyer for any payment; and

17.15.2 handle the claim, excluding any claim by the Buyer, directly through the third party's insurance or other representative;

17.16 The Buyer must keep the Supplier fully informed of all material matters relating to the Vehicle.

17.17 Where a Vehicle is declared a Total Loss, the Buyer will continue to be liable for the Charges for the Vehicle until the Supplier receives the Settlement Sum in full. When they receive the Settlement Sum, the Supplier must reimburse the Buyer all of the Charges paid by the Buyer between the Total Loss notification date and the date of receipt of the Settlement Sum.

17.18 Following notification of a Total Loss, the Buyer must pay as soon as reasonably practicable to the Supplier the Settlement Sum in respect of that Vehicle on the date specified in the advice of the same sent to the Buyer.

17.19 Where the sum received for the Vehicle from the Buyer’s insurance provider is less than the Settlement Sum, the Buyer is liable to pay to the Supplier the differential amount.

17.20 The Supplier may charge an administration fee to the Buyer to cover any reasonable costs incurred in the assessment of the Vehicle and the completion of any relevant documentation in relation to the Total Loss process.

17.21 For Car Share Technology Only, the Buyer will use its own breakdown service provider for all of its own vehicles unless otherwise agreed at Call-Off Contract.

## 18 Maintenance

18.1 The Supplier shall ensure that all repairs are in accordance with manufacturer’s recommendations and warranty stipulations.

18.2 Where requested, the Supplier shall endeavour to offer maintenance out of hours, at Buyer premises or at another location.

18.3 Subject to repairs and maintenance, the Supplier must make sure that Vehicle downtime is minimised and a replacement Vehicle is provided to reduce the impact on the Buyer and/or the driver.

18.4 The Buyer shall make the Vehicle available to the Supplier for the purposes of carrying out scheduled maintenance.

18.5 The Buyer shall regularly inspect the Vehicle condition during the Hire Period including checking and maintaining correct tyre pressures and wheel nuts, inspecting the Vehicle’s lights, glass bodywork and paint.

18.6 The Buyer shall adhere to any recommended routine Vehicle checks whilst in possession of the Vehicle.

18.7 Where required, the Supplier shall instruct the Buyer, providing the necessary guidance, if Vehicle maintenance and checks are required during the Hire Period. This may include regularly checking and adjusting as necessary engine oil levels, adblue, screen wash levels and coolant levels (as appropriate);

18.8 The Buyer shall report accurate odometer mileage readings to the Supplier if requested using an appropriate method of reporting. If the odometer of the Vehicle fails, the Buyer shall immediately deliver the Vehicle to the Buyer for repair and shall inform the Buyer of the dates upon which the odometer was not working.

18.9 If the odometer on any Vehicle ceases to function properly or if the manufacturer's seals on the odometer of any Vehicle is or has been interfered with, the Supplier shall be entitled to estimate the distance travelled by that Vehicle for the period for which the odometer has failed to function properly.

18.10 The Buyer shall ensure that the interiors of the Vehicles are in a clean condition following the end of the Hire Period and each Vehicle Booking.

18.11 The Supplier shall clean all Vehicles inside and out every two weeks. If requested by the Buyer, the Supplier shall clean a Vehicle outside of the two week cycle at the rate for Special Cleaning listed in Call-Off Schedule 5 - Pricing Details.

18.12 The Supplier shall implement and operate a formal vehicle recall and fault rectification procedure for all Vehicles supplied pursuant to the CallOff Contract including where the Buyer is in possession of a Vehicle.

18.12.1 When informed by the Supplier, the Buyer shall stop using any Vehicle which is subject to an immediate manufacturer recall and make it available for collection by the Supplier. The Buyer shall not be subject to a Rental Charge during this period of a collection charge.

18.13 The Supplier is responsible for arrangement and payment for:

18.13.1 routine servicing and maintenance of the Vehicle in accordance with manufacturer's recommendations; and

18.13.2 repair and replacement of parts including but not limited to tyres, exhausts and brakes.

18.14 The Supplier indemnifies the Buyer against all reasonable Losses incurred whilst the Vehicle is unavailable for use by the Buyer due to a Default.

18.15 For Car Share Technology Only, the responsibility for maintenance and cleaning of all the Buyer’s own vehicles remains with the Buyer unless agreed otherwise at Hire.

## 19 Insurance

19.1 The Supplier shall supply, upon request, the terms of its insurance cover to the Buyer where the Buyer is relying on the Supplier's insurance. The Buyer shall comply with the terms of the Supplier's insurance.

19.2 Unless otherwise stated by the Supplier’s insurance, no minimum age restriction on drivers shall apply to the supply of Vehicles for hire. The Supplier shall notify the Buyer if the Supplier's insurance imposes a minimum age restriction on drivers prior to commencement of the Call-Off Contract.

19.3 The Buyer shall, unless relying on Crown Indemnity or using the Supplier’s insurance:

19.3.1 insure the Vehicle from the Actual Delivery Time and keep the Vehicle insured, unless a different time is agreed in the Hire, until the earlier of:

19.3.1.1 the Actual Return Time, or;

19.3.1.2 six (6) Work Hours after the Due Return Time;

19.3.1.3 notwithstanding 19.3.1.1 and 19.3.1.2, If the Buyer fails to return the Vehicle by the Due Return Time then it shall insure the Vehicle until a new return time is agreed and from this point 19.3.1.1 or 19.3.1.2 shall apply.

19.3.2 insure the Vehicle to the full replacement value under a fully comprehensive policy of insurance in the name of the Buyer which insures against all liabilities required by the Road Traffic

Act 1988 s. 145(3) and which is primary to any policy of the Supplier bearing endorsements recording the interest of the Supplier and any other persons the Supplier nominates as loss payee. The insurance policy may be subject to such uninsured amount (**"Excess"**) as may be applicable from time to time and the Buyer shall be liable to the Supplier against any Losses up to the level of the Excess; and

19.3.3 apply all money received in respect of such insurances in the repairing of damage to or in restoring or replacing the Vehicle.

19.4 Subject to the Buyer’s compliance with the Terms of this Call-Off Schedule 24 (Car Share Hire Terms) and where the Buyer requests Collision Damage Waiver and third-party liability insurance for the Hire, the Supplier shall:

19.4.1 waive the Buyer’s liability for loss, damage or theft of the Vehicle, up to any excess amount indicated in the relevant rate schedule; and

19.4.2 ensure that use of the Vehicle is covered by the Supplier’s insurance as required by the Road Traffic Act 1988 or any other applicable insurance legislation in force in any country in which Equipment is operated with the permission of the Supplier subject to the terms and conditions of such policy.

19.5 If relying on Crown indemnity the Buyer shall:

19.5.1 meet any liabilities arising out of the use of the Vehicle required to be insured against by the Road Traffic Act 1988 s. 145(3) regardless of any insurance policy of the Supplier which may cover the same liability; and

19.5.2 in the event of damage to, loss or theft of the Vehicle reimburse the Supplier for the cost of repair or replacement of the Equipment plus any other losses reasonably incurred by the Supplier as a result of the damage to, loss or theft of the Equipment, as per the Vehicle Damage Assessment Report.

19.6 The Supplier must update the motor insurance database (MID) or provide the appropriate data for the Buyer to manage this themselves in respect of the Vehicles at all times in order to meet the requirements of the EU Motor Insurance Directive.

19.7 For Car Share Technology Only, the Buyer will use its own insurance solution for all of its own vehicles unless otherwise agreed at Call-Off Contract.

## 20 Payment and Invoicing

20.1 The Supplier shall facilitate payment by the Buyer of the Rental Charges, Additional Charges and, where appropriate, Insurance Charges under a Call-Off Contract under any method agreed with the Buyer in the Hire.

20.2 The Supplier shall include as a minimum a unique order or booking reference and where requested provide additional supporting documentation in relation to the Charges applied.

20.3 The Supplier shall facilitate a change in the method of payment where requested to do so by the Buyer.

20.4 The Supplier shall not charge the Buyer any fees for the use of any payment method or for a change of payment method.

20.5 The Supplier shall have the ability to attribute the cost of each Hire to multiple cost centre codes for each Buyer.

20.6 The Supplier shall provide consolidated invoicing for all Lots where requested by the Buyer, typically on a monthly basis and comprising all Hires within the preceding period under the Call-Off Contract.

## 21 Termination of A Hire

21.1 Without affecting any other right or remedy available to them, the Supplier can terminate the Hire of the Vehicle by giving written notice to the Buyer if:

21.1.1 the Buyer fails to pay an undisputed invoiced sum due under a Hire within 30 calendar days of the date of the Reminder Notice;

21.1.2 there is a default of any terms in clause 16.1 of this Call-Off Schedule 24 - Car Share Hire Terms by the Buyer which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 Working Days after being notified in writing to do so.

21.2 The Buyer may terminate a Hire without any Charge if the Vehicle is within its Hire Period or the Buyer complies with the cancellation terms where the

Hire Period has not commenced, excluding the costs for conversions or modifications carried out on the Vehicle specifically at the Buyers request.

## 22 Consequences of Termination

22.1 Where the Hire of any Vehicle is terminated under the terms of the Call-Off Contract, the Supplier’s consent to the Buyer’s possession of the Vehicle will terminate. The Supplier can, by its authorised representatives, retake possession of the Vehicle and subject to clause 16.1.34 may enter the Delivery Place or any premises at which the Vehicle is located.

22.2 When a Hire is terminated and the Hire Period is thereby reduced from the period originally agreed, the Supplier may charge the Buyer at the rate applicable to the actual Hire Period in the Call-Off Schedule 5 - Pricing Details for any outstanding payments and may seek retrospective payment for the difference between the rate previously paid and the correct rate for all days from the commencement of the Hire Period.

# Annex A Hire Form Template

**[Buyer guidance:** This Hire Template, when completed and executed by both Parties, forms a Hire under a Call-Off Contract. A Hire can be completed and executed using an equivalent document or the online booking system. If an online booking system is used instead of signing as a hard-copy, the details below must be provided when confirming the Hire.

|  |  |
| --- | --- |
| ORDER REFERENCE: | **[Insert** Buyer’s Hire number] |
| DATE OF ORDER: | **[Insert** Date the order is placed] |
| THE BUYER: | **[Insert** Buyer’s name] |
| THE SUPPLIER: | [**Insert** name of Supplier] |
| THE DRIVER: | **[Insert** Driver’s name] |

THE DELIVERABLES

[**Buyer guidance**: Insert the details for the Vehicle and/or Equipment which are the subject of the Call-Off Contract. For example:

Vehicle: [**Insert** Description of Vehicles]

Quantity: [**Insert** Number of items]

Additional Equipment: [[**Insert** Description of any additional Equipment]

Delivery Place: [**Insert** the address where the Vehicle is to be delivered by the Supplier / picked up by Buyer]

Collection place: [**Insert** the address where the

Vehicle is to be collected by Supplier / returned by

Buyer]

HIRE PERIOD

The Hire Period shall be the period of **[Insert [ ]** time and date from the Actual Delivery Time until the Due Return Time which is **[Insert[ ]** time and date.

PRICE AND PAYMENT

Rental Charges payable by the Buyer[**Insert** amount payable (excluding VAT)]

Additional Charges payable by the Buyer  **[Insert** amount payable by the Buyer

(excluding VAT):

Insurance Charges payable by the Buyer [**Insert** amount payable (excluding VAT)]

**For and on behalf of the Buyer:**

|  |  |
| --- | --- |
| Name and Title |  |
| Signature |  |
| Date |  |

**For and on behalf of the Supplier:**

|  |  |
| --- | --- |
| Name and Title |  |
| Signature |  |
| Date |  |
|  |  |

# Joint Schedule 1 (Definitions)

1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.

1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

1.3 In each Contract, unless the context otherwise requires:

1.3.1 the singular includes the plural and vice versa;

1.3.2 reference to a gender includes the other gender and the neuter;

1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;

1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";

1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;

1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings"** as references to obligations under the Contract;

1.3.8 references to **"Clauses"** and **"Schedules"** are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;

1.3.9 references to **"Paragraphs"** are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;

1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;

1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;

1.3.12 where the Buyer is a Central Government Body it shall be treated as contracting with the Crown as a whole;

1.3.13 any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

1. any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
2. any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred; and

1.3.14 unless otherwise provided, references to “**Buyer**” shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to “**Call-Off Contract**” and “**Contract**” shall be construed as including Exempt Call-off Contracts.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

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| **"Achieve"** | in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "**Achieved**", "**Achieving**" and "**Achievement**" shall be construed accordingly; |
| **"Additional**  **Insurances"** | insurance requirements relating to a Call-Off Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements); |
| **"Admin Fee”** | means the costs incurred by CCS in dealing with MI Failures calculated in  accordance with the tariff of administration charges published by the CCS on: http://CCS.cabinetoffice.gov.uk/i-am-supplier/managementinformation/admin-fees; |
| **"Affected Party"** | the Party seeking to claim relief in respect of a Force Majeure Event; |
| **"Affiliates"** | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time; |
| **“Annex”** | extra information which supports a Schedule; |
| **"Approval"** | the prior written consent of the Buyer and "**Approve**" and "**Approved**" shall be construed accordingly; |
| **"Audit"** | the Relevant Authority’s right to: |

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|  | 1. verify the accuracy of the Charges and any other amounts payable by a Buyer under a Call-Off Contract (including proposed or actual variations to them in accordance with the Contract); 2. verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the   Services;   1. verify the Open Book Data; 2. verify the Supplier’s and each Subcontractor’s compliance with the Contract and applicable Law; 3. identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations; 4. identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; 5. obtain such information as is necessary to fulfil the Relevant Authority’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the   Comptroller and Auditor General;   1. review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract; 2. carry out the Relevant Authority’s internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts; 3. enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources; or 4. verify the accuracy and completeness of any Management Information delivered or required by the Framework Contract; |
| **"Auditor"** | 1. the Relevant Authority’s internal and external auditors; 2. the Relevant Authority’s statutory or regulatory auditors; 3. the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; 4. HM Treasury or the Cabinet Office; 5. any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and 6. successors or assigns of any of the above; |

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| **"Authority"** | CCS and each Buyer; |
| **"Authority**  **Cause"** | any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subjectmatter of the Contract and in respect of which the Relevant Authority is liable to the Supplier; |
| **"BACS"** | the Bankers’ Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom; |
| **"Beneficiary"** | a Party having (or claiming to have) the benefit of an indemnity under this Contract; |
| **"Buyer"** | the relevant public sector purchaser identified as such in the Order Form; |
| **"Buyer Assets"** | the Buyer’s infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract; |
| **"Buyer**  **Authorised**  **Representative"** | the representative appointed by the Buyer from time to time in relation to the Call-Off Contract initially identified in the Order Form; |
| **"Buyer Premises"** | premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them); |
| **"Call-Off**  **Contract"** | the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form; |
| **"Call-Off Contract**  **Period"** | the Contract Period in respect of the Call-Off Contract; |
| **"Call-Off Expiry**  **Date"** | the scheduled date of the end of a Call-Off Contract as stated in the Order Form; |
| **"Call-Off**  **Incorporated Terms"** | the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form; |
| **"Call-Off Initial**  **Period"** | the Initial Period of a Call-Off Contract specified in the Order Form; |
| **"Call-Off Optional**  **Extension**  **Period"** | such period or periods beyond which the Call-Off Initial Period may be extended as specified in the Order Form; |
| **"Call-Off Procedure"** | the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Award Procedure); |
| **"Call-Off Special**  **Terms"** | any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract; |

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| **"Call-Off Start**  **Date"** | the date of start of a Call-Off Contract as stated in the Order Form; |
| **"Call-Off Tender"** | the tender submitted by the Supplier in response to the Buyer’s Statement of Requirements following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off Tender); |
| **"CCS"** | the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP; |
| **"CCS Authorised**  **Representative"** | the representative appointed by CCS from time to time in relation to the Framework Contract initially identified in the Framework Award Form; |
| **"Central**  **Government**  **Body"** | a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National  Statistics:   1. Government Department; 2. Non-Departmental Public Body or Assembly Sponsored Public Body   (advisory, executive, or tribunal);   1. Non-Ministerial Department; or 2. Executive Agency; |
| **"Change in Law"** | any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date; |
| **"Change of**  **Control"** | a change of control within the meaning of Section 450 of the Corporation Tax Act 2010; |
| **"Charges"** | the prices including the Additional Charges, Insurance Charges and Rental Charges (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Call-  Off Contract less any Deductions; |
| **"Claim"** | any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract; |
| **"Commercially**  **Sensitive**  **Information"** | the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss; |
| **"Comparable**  **Supply"** | the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables; |
| **"Compliance**  **Officer"** | the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations; |
| **"Confidential**  **Information"** | means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with |

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|  | 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; |
| **"Conflict of**  **Interest"** | a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS; |
| **"Contract"** | either the Framework Contract or the Call-Off Contract, as the context requires; |
| **"Contract Period"** | the term of either a Framework Contract or Call-Off Contract on and from the earlier of the:   1. applicable Start Date; or 2. the Effective Date up to and including the applicable End Date; |
| **"Contract Value"** | the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier; |
| **"Contract Year"** | a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof; |
| **"Control"** | control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "**Controlled**" shall be construed accordingly; |
| **“Controller”** | has the meaning given to it in the UK GDPR; |
| **“Core Terms”** | CCS’ terms and conditions for common goods and services which govern how Suppliers must interact with CCS and Buyers under Framework Contracts and Call-Off Contracts; |
| **"Costs"** | the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:  e) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including:  i) base salary paid to the Supplier Staff; ii) employer’s National Insurance contributions; iii) pension contributions; iv) car allowances;   1. any other contractual employment benefits; 2. staff training; vii) work place accommodation; |

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|  | viii)work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and  ix) reasonable recruitment costs, as agreed with the Buyer;   1. costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; 2. operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the   Supplier in the provision of the Deliverables; and   1. Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any   Deliverables; but excluding: i) Overhead;   1. financing or similar costs; 2. maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off   Contract Period whether in relation to Supplier Assets or otherwise; l) taxation;   1. fines and penalties; 2. amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and 3. non-cash items (including depreciation, amortisation, impairments and movements in provisions); |
| **"CRTPA"** | the Contract Rights of Third Parties Act 1999; |
| **“Data Protection Impact**  **Assessment”** | an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data; |
| **"Data Protection**  **Legislation"** | (i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy; |
| **“Data Protection**  **Liability Cap”** | the amount specified in the Framework Award Form; |
| **"Data Protection**  **Officer"** | has the meaning given to it in the UK GDPR; |
| **"Data Subject"** | has the meaning given to it in the UK GDPR; |

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| **"Data Subject**  **Access Request"** | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| **"Deductions"** | all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under a Call-Off Contract; |
| **"Default"** | any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority; |
| **"Default**  **Management Charge"** | has the meaning given to it in Paragraph 8.1.1 of Framework Schedule 5 (Management Charges and Information); |
| **"Delay Payments"** | the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan; |
| **"Deliverables"** | Goods and/or Services that may be ordered under the Contract including the Documentation; |
| **"Delivery"** | delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. "**Deliver**" and "**Delivered**" shall be construed accordingly; |
| **"Disclosing**  **Party"** | the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential); |
| **"Dispute"** | any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts; |
| **"Dispute**  **Resolution**  **Procedure"** | the dispute resolution procedure set out in Clause 34 (Resolving disputes); |
| **"Documentation"** | descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:  p) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, |
|  | build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables   1. is required by the Supplier in order to provide the Deliverables; and/or 2. has been or shall be generated for the purpose of providing the Deliverables; |
| **"DOTAS"** | the Disclosure of Tax Avoidance Schemes rules which require a promoter of Tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance  Contributions; |
| **“DPA 2018”** | the Data Protection Act 2018; |
| **"Due Diligence**  **Information"** | any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date; |
| **“Effective Date”** | the date on which the final Party has signed the Contract; |
| **"EIR"** | the Environmental Information Regulations 2004; |
| **“Electronic**  **Invoice”** | an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870; |
| **"Employment**  **Regulations"** | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC; |
| **"End Date"** | the earlier of:   1. the Expiry Date (as extended by any Extension Period exercised by the   Relevant Authority under Clause 10.1.2); or   1. if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract; |
| **"Environmental**  **Policy"** | to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer; |
| **"Equality and**  **Human Rights**  **Commission"** | **the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;** |
| **“Estimated Year 1**  **Charges”** | **the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Order Form;** |

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| **"Estimated**  **Yearly Charges"** | **means for the purposes of calculating each Party’s annual liability under clause 11.2 :**  **i) in the first Contract Year, the Estimated Year 1 Charges; or ii) in the any subsequent Contract Years, the Charges paid or payable in the previous Call-off Contract Year; or**  **iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period;** |
| **“Exempt Buyer”** | **a public sector purchaser that is:**   1. **eligible to use the Framework Contract; and** 2. **is entering into an Exempt Call-off Contract that is not subject to (as applicable) any of:**   **i) the Regulations; ii) the Concession Contracts Regulations 2016 (SI 2016/273); iii) the Utilities Contracts Regulations 2016 (SI 2016/274); iv) the Defence and Security Public Contracts Regulations 2011**  **(SI 2011/1848);**   * 1. **the Remedies Directive (2007/66/EC);**   2. **Directive 2014/23/EU of the European Parliament and**   **Council; vii) Directive 2014/24/EU of the European Parliament and**  **Council; viii) Directive 2014/25/EU of the European Parliament and**  **Council; or ix) Directive 2009/81/EC of the European Parliament and Council;** |
| **“Exempt Call-off**  **Contract”** | **the contract between the Exempt Buyer and the Supplier for Deliverables which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the Framework Contract;** |
| **“Exempt**  **Procurement**  **Amendments”** | **any amendments, refinements or additions to any of the terms of the Framework Contract made through the Exempt Call-off Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;** |

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| **"Existing IPR"** | **any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);** |

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| **“Exit Day”** | **shall have the meaning in the European Union (Withdrawal) Act 2018;** |
| **"Expiry Date"** | **the Framework Expiry Date or the Call-Off Expiry Date (as the context dictates);** |
| **"Extension Period"** | **the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates;** |
| **"FOIA"** | **the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;** |
| **"Force Majeure**  **Event"** | any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including:   1. riots, civil commotion, war or armed conflict; 2. acts of terrorism; 3. acts of government, local government or regulatory bodies; 4. fire, flood, storm or earthquake or other natural disaster,   but excluding any industrial dispute relating to the Supplier, the Supplier Staff or any other failure in the Supplier or the Subcontractor's supply chain; |
| **"Force Majeure**  **Notice"** | a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event; |
| **"Framework Award**  **Form"** | the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Supplier and CCS; |
| **"Framework**  **Contract"** | the framework agreement established between CCS and the Supplier in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the notice published on the Find a Tender Service; |
| **"Framework Contract Period"** | the period from the Framework Start Date until the End Date of the Framework Contract; |
| **"Framework Expiry**  **Date"** | the scheduled date of the end of the Framework Contract as stated in the Framework Award Form; |
| **"Framework**  **Incorporated Terms"** | the contractual terms applicable to the Framework Contract specified in the Framework Award Form; |
| **"Framework**  **Optional Extension Period"** | such period or periods beyond which the Framework Contract Period may be extended as specified in the Framework Award Form; |

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| **"Framework**  **Price(s)"** | the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices); |
| **"Framework Special**  **Terms"** | any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract; |
| **"Framework Start**  **Date"** | the date of start of the Framework Contract as stated in the Framework Award Form; |
| **"Framework Tender**  **Response"** | the tender submitted by the Supplier to CCS and annexed to or referred to in Framework Schedule 2 (Framework Tender); |
| **"Further**  **Competition**  **Procedure"** | the further competition procedure described in Framework Schedule 7 (Call-Off Award Procedure); |
| **"UK GDPR"** | the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679); |
| **"General Anti-Abuse**  **Rule"** | 1. the legislation in Part 5 of the Finance Act 2013 and; and 2. any future legislation introduced into parliament to counteract Tax advantages arising from abusive arrangements to avoid National Insurance contributions; |
| **"General Change in**  **Law"** | a Change in Law where the change is of a general legislative nature (including Tax or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply; |
| **"Goods"** | goods made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form ; |
| **"Good Industry**  **Practice"** | standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector; |
| **"Government"** | the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; |
| **"Government Data"** | the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority’s Confidential Information, and which:  i) are supplied to the Supplier by or on behalf of the Authority; or ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract; |

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| **"Guarantor"** | the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract; |
| **"Halifax Abuse**  **Principle"** | the principle explained in the CJEU Case C-255/02 Halifax and others; |
| **"HMRC"** | Her Majesty’s Revenue and Customs; |
| **"ICT Policy"** | the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure; |
| **"Impact**  **Assessment"** | an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:   1. details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the   Contract;   1. details of the cost of implementing the proposed Variation; 2. details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; 3. a timetable for the implementation, together with any proposals for the testing of the Variation; and 4. such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request; |
| **"Implementation**  **Plan"** | the plan for provision of the Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer; |
| **"Indemnifier"** | a Party from whom an indemnity is sought under this Contract; |
| **“Independent**  **Control”** | where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and  “**Independent Controller**” shall be construed accordingly; |
| **"Indexation"** | the adjustment of an amount or sum in accordance with Framework Schedule 3 (Framework Prices) and the relevant Order Form; |
| **"Information"** | has the meaning given under section 84 of the Freedom of Information Act 2000; |
| **"Information Commissioner"** | the UK’s independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies; |

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| **"Initial Period"** | the initial term of a Contract specified in the Framework Award Form or the Order Form, as the context requires; |
| **"Insolvency Event"** | with respect to any person, means:  (a) that person 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:   1. (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or 2. (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; 3. that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; 4. another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; 5. a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person’s assets and such attachment or process is not discharged within 14 days; 6. that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; 7. where that person is a company, a LLP or a partnership: 8. a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; 9. 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 filed at Court or given or if an administrator is appointed, over that person; 10. (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or |

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|  | (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or  (g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above; |
| **"Installation Works"** | all works which the Supplier is to carry out at the beginning of the CallOff Contract Period to install the Goods in accordance with the CallOff Contract; |
| **"Intellectual**  **Property Rights" or**  **"IPR"** | 1. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information; 2. applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and 3. all other rights having equivalent or similar effect in any country or jurisdiction; |
| **"Invoicing Address"** | the address to which the Supplier shall invoice the Buyer as specified in the Order Form; |
| **"IPR Claim"** | any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract; |
| **"IR35"** | the off-payroll rules requiring individuals who work through their company pay the same income tax and National Insurance contributions as an employee which can be found online at: [https://www.gov.uk/guidance/ir35-find-out-if-it-applies;](https://www.gov.uk/guidance/ir35-find-out-if-it-applies) |
| **“Joint Controller**  **Agreement”** | the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 (*Processing Data*); |
| **“Joint Controllers”** | where two or more Controllers jointly determine the purposes and means of Processing; |
| **"Key Staff"** | the individuals (if any) identified as such in the Order Form; |
| **"Key Sub-Contract"** | each Sub-Contract with a Key Subcontractor; |
| **"Key Subcontractor"** | any Subcontractor:  a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or |

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|  | 1. which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or 2. with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Call-Off   Contract, and the Supplier shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in Order Form; |
| **"Know-How"** | all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party’s possession before the applicable Start Date; |
| **"Law"** | any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply; |
| **"Losses"** | all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "**Loss**" shall be interpreted accordingly; |
| **"Lots"** | the number of lots specified in Framework Schedule 1  (Specification), if applicable; |
| **"Management**  **Charge"** | the sum specified in the Framework Award Form payable by the Supplier to CCS in accordance with Framework Schedule 5 (Management Charges and Information); |
| **"Management Information" or “MI”** | the management information specified in Framework Schedule 5 (Management Charges and Information); |
| **“MI Default”** | means whentwo (2) MI Reports are not provided in any rolling six (6) month period |
| **"MI Failure"** | means when an MI report:   1. contains any material errors or material omissions or a missing mandatory field; or 2. is submitted using an incorrect MI reporting Template; or 3. is not submitted by the reporting date (including where a declaration of no business should have been filed); |
| **"MI Report"** | means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information); |

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| **"MI Reporting**  **Template"** | means the form of report set out in the Annex to Framework Schedule 5 (Management Charges and Information) setting out the information the Supplier is required to supply to the Authority; |
| **"Milestone"** | an event or task described in the Implementation Plan; |
| **"Milestone Date"** | the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved; |
| **"Month"** | a calendar month and "**Monthly**" shall be interpreted accordingly; |
| **"National Insurance"** | contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004); |
| **"New IPR"** | 1. IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or 2. IPR in or arising as a result of the performance of the Supplier’s obligations under a Contract and all updates and amendments to the same; but shall not include the Supplier’s Existing IPR; |
| **"Occasion of Tax**  **Non–Compliance"** | where:   1. any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:   i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any Tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-  Abuse Rule or the Halifax Abuse Principle; ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or   1. any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for Tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion; |
| **"Open Book Data "** | complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Call-Off Contract, including details and all assumptions relating to:  a) the Supplier’s Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure |

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|  | (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;  b) operating expenditure relating to the provision of the Deliverables including an analysis showing:   1. the unit costs and quantity of Goods and any other consumables and bought-in Deliverables; 2. staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade; 3. a list of Costs underpinning those rates for each grade, being the agreed rate less the Supplier Profit Margin; and 4. Reimbursable Expenses, if allowed under the Order Form; c) Overheads; 5. all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables; 6. the Supplier Profit achieved over the Framework Contract Period and on an annual basis; 7. confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier; 8. an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and 9. the actual Costs profile for each Service Period; |
| **"Order"** | means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract; |
| **"Order Form"** | a completed Order Form Template (or equivalent information issued by the Buyer) used to create a Call-Off Contract; |
| **"Order Form**  **Template"** | the template in Framework Schedule 6 (Order Form Template and Call-Off Schedules); |
| **"Other Contracting**  **Authority"** | any actual or potential Buyer under the Framework Contract; |

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

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|  | ii) reward that person for improper performance of a relevant function or activity;   1. to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or 2. committing any offence:    1. under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or    2. under legislation or common law concerning fraudulent acts; or iii) defrauding, attempting to defraud or conspiring to defraud a   Buyer or other public body; or   1. any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK; |
| **“Protective**  **Measures”** | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Framework Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract. |
| **“Recall”** | a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance; |
| **"Recipient Party"** | the Party which receives or obtains directly or indirectly Confidential Information; |
| **"Rectification Plan"** | the Supplier’s plan (or revised plan) to rectify it’s breach using the template in Joint Schedule 10 (Rectification Plan) which shall include:   1. full details of the Default that has occurred, including a root cause analysis; 2. the actual or anticipated effect of the Default; and 3. the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable); |
| **"Rectification Plan**  **Process"** | the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process); |

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| **"Regulations"** | the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires); |
| **"Reimbursable**  **Expenses"** | the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:   1. travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and 2. subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed; |
| **"Relevant Authority"** | the Authority which is party to the Contract to which a right or obligation is owed, as the context requires; |
| **"Relevant**  **Authority's**  **Confidential**  **Information"** | 1. all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all   Relevant Authority Existing IPR and New IPR);   1. any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority’s attention or into the Relevant Authority’s possession in connection with a Contract; and information derived from any of the above; |
| **"Relevant Requirements"** | all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010; |
| **"Relevant Tax**  **Authority"** | HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established; |
| **"Reminder Notice"** | a notice sent in accordance with Clause 10.5 given by the Supplier to the Buyer providing notification that payment has not been received on time; |
| **"Replacement**  **Deliverables"** | any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party; |
| **"Replacement**  **Subcontractor"** | a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor); |
| **"Replacement**  **Supplier"** | any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is |

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|  | providing Replacement Deliverables for its own account, shall also include the Buyer; |
| **"Request For**  **Information"** | a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs; |
| **"Required**  **Insurances"** | the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form; |
| **"Satisfaction**  **Certificate"** | the certificate (materially in the form of the document contained in of Part B of Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test; |
| **"Security**  **Management Plan"** | the Supplier's security management plan prepared pursuant to CallOff Schedule 9 (Security) (if applicable); |
| **"Security Policy"** | the Buyer's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier; |
| **"Self Audit**  **Certificate"** | means the certificate in the form as set out in Framework Schedule 8 (Self Audit Certificate); |
| **"Serious Fraud**  **Office"** | the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time; |
| **“Service Levels”** | any service levels applicable to the provision of the Deliverables under the Call Off Contract (which, where Call Off Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule); |
| **"Service Period"** | has the meaning given to it in the Order Form; |
| **"Services"** | services made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form; |
| **"Service Transfer"** | any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor; |
| **"Service Transfer**  **Date"** | the date of a Service Transfer; |
| **"Sites"** | any premises (including the Buyer Premises, the Supplier’s premises or third party premises) from, to or at which:   1. the Deliverables are (or are to be) provided; or 2. the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; |
| **"SME"** | an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 |

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|  | May 2003 concerning the definition of micro, small and medium enterprises; |
| **"Special Terms"** | any additional Clauses set out in the Framework Award Form or Order Form which shall form part of the respective Contract; |
| **"Specific Change in**  **Law"** | a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date; |
| **"Specification"** | the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form; |
| **"Standards"** | any:   1. standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; 2. standards detailed in the specification in Schedule 1 (Specification); 3. standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time; 4. relevant Government codes of practice and guidance applicable from time to time; |
| **"Start Date"** | in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form; |
| **"Statement of**  **Requirements"** | a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Call-Off Procedure; |
| **"Storage Media"** | the part of any device that is capable of storing and retrieving data; |
| **"Sub-Contract"** | any contract or agreement (or proposed contract or agreement), other than a Call-Off Contract or the Framework Contract, pursuant to which a third party:   1. provides the Deliverables (or any part of them); 2. provides facilities or services necessary for the provision of the   Deliverables (or any part of them); and/or   1. is responsible for the management, direction or control of the provision of the Deliverables (or any part of them); |
| **"Subcontractor"** | any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person; |

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| **"Subprocessor"** | any third Party appointed to process Personal Data on behalf of that Processor related to a Contract; |
| **"Supplier"** | the person, firm or company identified in the Framework Award Form; |
| **"Supplier Assets"** | all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Buyer Assets; |
| **"Supplier**  **Authorised**  **Representative"** | the representative appointed by the Supplier named in the Framework Award Form, or later defined in a Call-Off Contract; |
| **"Supplier's**  **Confidential**  **Information"** | 1. any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the   Supplier;   1. 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 and which comes (or has come) to the Supplier’s attention or into the Supplier’s possession in connection with a Contract; 2. Information derived from any of (a) and (b) above; |
| **upplier's Contract Manager** | the person identified in the Order Form appointed by the Supplier to oversee the operation of the Call-Off Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment; |
| **"Supplier Equipment"** | the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Call-Off Contract; |
| **"Supplier Marketing**  **Contact"** | shall be the person identified in the Framework Award Form; |
| **"Supplier Non-**  **Performance"** | where the Supplier has failed to:   1. Achieve a Milestone by its Milestone Date; 2. provide the Goods and/or Services in accordance with the Service   Levels ; and/or   1. comply with an obligation under a Contract; |
| **"Supplier Profit"** | in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of a Call-Off Contract for the relevant period; |
| **"Supplier Profit**  **Margin"** | in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant |

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|  | Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage; |
| **"Supplier Staff"** | all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the  performance of the Supplier’s obligations under a Contract; |
| **"Supporting**  **Documentation"** | sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Call-Off Contract detailed in the information are properly payable; |
| **“Tax”** | 1. all forms of taxation 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; |
| **"Termination**  **Notice"** | a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination; |
| **"Test Issue"** | any variance or non-conformity of the Deliverables from their requirements as set out in a Call-Off Contract; |
| **"Test Plan"** | a plan:   1. for the Testing of the Deliverables; and 2. setting out other agreed criteria related to the achievement of Milestones; |
| **"Tests "** | any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off Contract and "**Tested**" and “**Testing**” shall be construed accordingly; |
| **"Third Party IPR"** | Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables; |
| **"Transferring**  **Supplier**  **Employees"** | those employees of the Supplier and/or the Supplier’s Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date; |
| **"Transparency**  **Information"** | the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for –   1. any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and 2. Commercially Sensitive Information; |
| **"Transparency**  **Reports"** | the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Call-Off Schedule 1 (Transparency Reports); |
| **"Variation"** | any change to a Contract; |
| **"Variation Form"** | the form set out in Joint Schedule 2 (Variation Form); |
| **"Variation Procedure"** | the procedure set out in Clause 24 (Changing the contract); |
| **"VAT"** | value added tax in accordance with the provisions of the Value Added Tax Act 1994; |
| **"VCSE"** | a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives; |
| **"Worker"** | any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note  08/15 (Tax Arrangements of Public Appointees)  (https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; |
| **"Working Day"** | any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form; |
| **"Work Day"** | 7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and |
| **"Work Hours"** | the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks. |

# Joint Schedule 2 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24

(Changing the Contract)

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Contract Details** | | | | | | |
| This variation is between: |  | **[delete** | as applicable:CCS / Buyer**]** ("**CCS” “the Buyer"**)  name of Supplier**]** (**"the Supplier"**) | | | | |
| And  **[insert** |
| Contract name: |  | **[insert** | name of contract to be changed] **(“the Contract”)** | | | | |
|  |
| Contract reference number: |  | **[insert** | contract reference number] | | | | |
|  |
|  | **Details of Proposed Variation** | | | | | | |
| Variation initiated by: |  | **[delete** | as applicable: CCS/Buyer/Supplier] | | | | |
|  |
| Variation number: |  | **[insert** | variation number] | | | | |
|  |
| Date variation is raised: |  | **[insert** | date] | | | | |
|  |
| Proposed variation |  | | | | | | |
| Reason for the variation: |  | **[insert** | reason] | | | | |
|  |
| An Impact Assessment shall be provided within: |  | **[insert** | number] days | | | | |
|  |
|  | **Impact of Variation** | | | | | | |
| Likely impact of the proposed variation: |  | **[Supplier to insert** | | assessment of impact] | | | |
|  | |
|  | **Outcome of Variation** | | | | | | |
| Contract variation: | This Contract detailed above is varied as follows:  ● **[CCS/Buyer to insert** original Clauses or Paragraphs to be varied and the changed clause] | | | | | | |
| Financial variation: | Original Contract Value: | | | | £ | **[insert** | amount] |
|  |
| Additional cost due to variation: | | | | £ | **[insert** | amount] |
|  |
| New Contract value: | | | | £ | **[insert** | amount] |
|  |

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

Crown Copyright 2018

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

|  |  |
| --- | --- |
| Signature  Date  Name (in Capitals)  Address |  |
|  |
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|  |

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

|  |  |
| --- | --- |
| Signature  Date  Name (in Capitals)  Address |  |
|  |
|  |
|  |

Framework Ref: RM

Project Version: v1.0

Model Version: v3.0

# Joint Schedule 3 (Insurance Requirements)

## 1. The insurance you need to have

1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than:

1.1.1 the Framework Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

1.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.

1.2 The Insurances shall be:

1.2.1 maintained in accordance with Good Industry Practice;

1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;

1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and

1.2.4 maintained for at least six (6) years after the End Date.

1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

## 2. How to manage the insurance

2.1 Without limiting the other provisions of this Contract, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

## 3. What happens if you aren’t insured

3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

## 4. Evidence of insurance you must provide

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

## 5. Making sure you are insured to the required amount

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

## 6. Cancelled Insurance

6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or nonrenewal of any of the Insurances.

6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## 7. Insurance claims

7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.

7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

## ANNEX: REQUIRED INSURANCES

1. The Supplier shall hold the following insurance cover from the Framework Start Date in accordance with this Schedule:
   1. Product Liability Insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000);
   2. Public Liability Insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000); and
   3. Employers’ Liability Insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000).

Joint Schedule 4 (Commercially Sensitive Information) Crown Copyright 2022

# Joint Schedule 4 (Commercially Sensitive Information)

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

|  |  |  |
| --- | --- | --- |
| **No.** | **Item(s)** | **Duration of Confidentiality** |
| 1 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 2 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 3 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |
| 4 | **REDACTED TEXT under FOIA Section 43 Commercial Interests** | No End Date/Duration - Ongoing/Continuous |

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Joint Schedule 4 (Commercially Sensitive Information) Crown Copyright 2022

# Joint Schedule 5 (Corporate Social Responsibility)

## 1. What we expect from our Suppliers

1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.

[(https://www.gov.uk/government/uploads/system/uploads/attachment\_data/fi le/646497/2017-09-](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)

[13\_Official\_Sensitive\_Supplier\_Code\_of\_Conduct\_September\_2017.pdf)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)

1.2 CCS expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, CCS expects its suppliers and subcontractors to comply with the standards set out in this Schedule.

1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

## 2. Equality and Accessibility

2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:

2.1.1 eliminate discrimination, harassment or victimisation of any kind; and

2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

## 3. Modern Slavery, Child Labour and Inhumane Treatment

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

3.1 The Supplier:

3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;

3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge

deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;

3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.

3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.

3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.

3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its

Subcontractors anti-slavery and human trafficking provisions;

3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;

3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;

3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;

3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;

3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

3.2 The Supplier shall:

3.2.1 where requested, complete an annual modern slavery risk assessment, using the Modern Slavery Assessment Tool (MSAT) or an equivalent toolkit as specified by CCS and/or the Buyer;

3.2.2 following the completion of a modern slavery risk assessment as per 3.2.1, provide CCS and/or the Buyer with a risk mitigation plan addressing any identified risks. This risk mitigation plan must be provided no later than one month after the completion of the risk assessment.

## 4. Income Security

4.1 The Supplier shall:

4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;

4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;

4.1.3 not make deductions from wages:

1. as a disciplinary measure
2. except where permitted by law; or
3. without expressed permission of the worker concerned;

4.1.4 record all disciplinary measures taken against Supplier Staff; and

4.1.5 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

## 5. Working Hours

5.1 The Supplier shall:

5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;

5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;

5.1.3 ensure that use of overtime used responsibly, taking into account:

1. the extent;
2. frequency; and
3. hours worked;

by individuals and by the Supplier Staff as a whole;

* 1. The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
  2. Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
     1. this is allowed by national law;
     2. this is allowed by a collective agreement freely negotiated with a workers’ organisation representing a significant portion of the workforce;

appropriate safeguards are taken to protect the workers’ health and safety; and

* + 1. the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

4.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

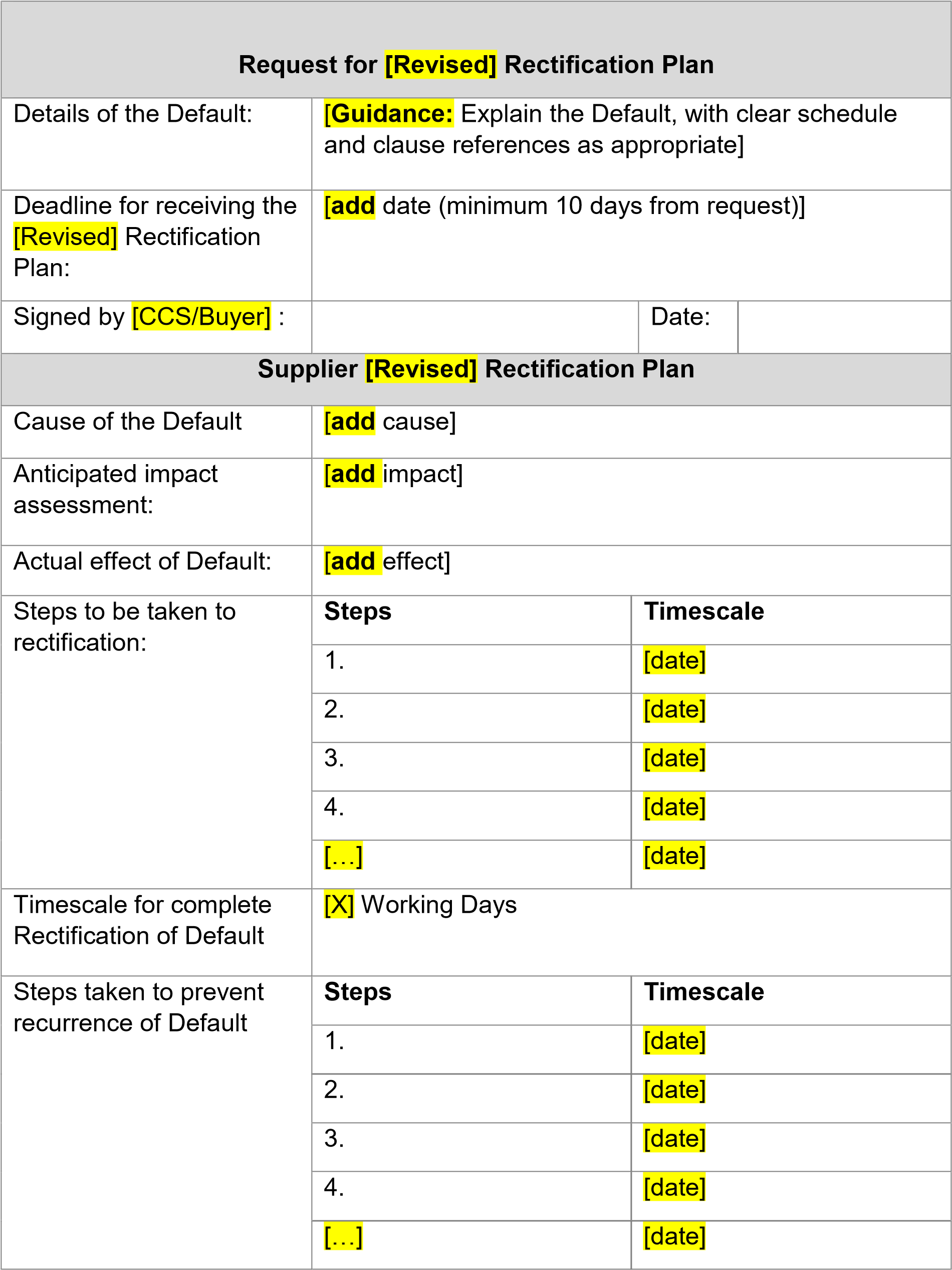
## 5. Sustainability

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

[https://www.gov.uk/government/collections/sustainable-procurement-thegovernment-buying-standards-gbs](https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs)

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# Joint Schedule 10 (Rectification Plan)



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

# Joint Schedule 11 (Processing Data)

## Definitions

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

**“Processor** all directors, officers, employees, agents, consultants and

**Personnel”** suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

## Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection

Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

(a) “Controller” in respect of the other Party who is “Processor”; (b) “Processor” in respect of the other Party who is “Controller”;

1. “Joint Controller” with the other Party;
2. “Independent Controller” of the Personal Data where the other Party is also

“Controller”,

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

## Where one Party is Controller and the other Party its Processor

1. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 *(Processing Personal Data*) by the Controller.
2. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
4. a systematic description of the envisaged Processing and the purpose of the Processing;
5. an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
6. an assessment of the risks to the rights and freedoms of Data Subjects; and
7. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:

1. Process that Personal Data only in accordance with Annex 1 *(Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
2. ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms*,* which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
   1. nature of the data to be protected;
   2. harm that might result from a Personal Data Breach;
   3. state of technological development; and
   4. cost of implementing any measures; (c) ensure that :
   5. the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 *(Processing Personal Data*));
   6. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      1. are aware of and comply with the Processor’s duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15

(*What you must keep confidential*) and 16 (*When you can share information*) of the Core Terms;

* + 1. are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
    2. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
    3. have undergone adequate training in the use, care, protection and handling of Personal Data;

1. not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
   1. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with

UK GDPR Article 46 or LED Article 37) as determined by the Controller;

* 1. the Data Subject has enforceable rights and effective legal remedies;
  2. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  3. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and

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

7. Subject to paragraph 8 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:

1. receives a Data Subject Access Request (or purported Data Subject Access Request);
2. receives a request to rectify, block or erase any Personal Data;
3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
5. 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
6. becomes aware of a Personal Data Breach.
7. The Processor’s obligation to notify under paragraph 7 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
8. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 7 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
9. the Controller with full details and copies of the complaint, communication or request;
10. such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
11. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
12. assistance as requested by the Controller following any Personal Data Breach; and/or
13. assistance as requested by the Controller with respect to any request from the Information Commissioner’s Office, or any consultation by the Controller with the Information Commissioner's Office.

10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

1. the Controller determines that the Processing is not occasional;
2. the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
3. the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
4. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller’s designated auditor.
5. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
6. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
7. notify the Controller in writing of the intended Subprocessor and Processing;
8. obtain the written consent of the Controller;
9. enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
10. provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
11. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
12. The Relevant Authority may, at any time on not less than thirty (30) Working Days’ notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
13. The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Relevant Authority may on not less than thirty (30) Working Days’ notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

## Where the Parties are Joint Controllers of Personal Data

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

## Independent Controllers of Personal Data

1. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
2. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
3. Where a Party has provided Personal Data to the other Party in accordance with paragraph 18 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
4. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
5. The Parties shall only provide Personal Data to each other:
6. to the extent necessary to perform their respective obligations under the Contract;
7. in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
8. where it has recorded it in Annex 1 *(Processing Personal Data).*
9. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
10. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
11. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract **(“Request Recipient”)**:
12. the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
13. where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    1. promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    2. provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:

1. do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
2. implement any measures necessary to restore the security of any compromised Personal Data;
3. work with the other Party to make any required notifications to the Information Commissioner’s Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
4. not do anything which may damage the reputation of the other Party or that

Party's relationship with the relevant Data Subjects, save as required by Law.

1. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 *(Processing Personal Data).*
2. Personal Data shall not be retained or processed for longer than is necessary to perform each Party’s respective obligations under the Contract which is specified in Annex 1 *(Processing Personal Data)*.
3. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 28 of this Joint Schedule 11.

## Annex 1 - Processing Personal Data

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

1.1 The contact details of the Relevant Authority’s Data Protection Officer are: **REDACTED TEXT under FOIA Section 40, Personal Information**

1.2 The contact details of the Supplier’s Data Protection Officer are: **REDACTED TEXT under FOIA Section 40, Personal Information**

1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Identity of  Controller for each  Category of  Personal Data | The Parties are Independent Controllers of Personal Data    The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:   * Business contact details of Supplier Personnel for which the Supplier is the Controller * Business contact details of any directors, officers, employees, agents, consultants and contractors of Relevant Authority (excluding the Supplier Personnel) engaged in the performance of the Relevant Authority’s duties under the Contract) for which the Relevant Authority is the Controller, * In addition to the above, each Party is Independent   Controllers for the purposes of the Data Protection Legislation in respect of all other the Personal Data which it receives under this Agreement and are further listed under the “Type of Personal Data” section below. |
| Duration of the Processing | *As set out in the respective Controller’s Privacy Policy.* |
| Nature and purposes of the  Processing | The data will be processed to enable the provision of vehicle hire services and managementof this RM6265 Vehicle Hire Solutions Call-Off Agreement.    CCS staff will use the supplier booking portal under the terms of this call-off contract. |
| Type of Personal Data | Information regarding the personnel of either Party include;   * Full name * Workplace address * Workplace Phone Number * Workplace email address * Date of birth * Copy of ID documents * Employee number/identifier     Drivers Only;   * Full name * Personal Phone Number * Personal Address * Emergency contact details * Protected category data * Drivers Licence details * Date of birth * Payment information where the driver pays on a personal card. * Accident data which may include health data of the driver. * Other driver / rental details * Personal vehicle registration number |
| Categories of Data Subject | Drivers using the services provided under the terms of the contract and Employees of the Parties involved in the day to day management of the contract. |
| Plan for return and destruction of the data once the Processing is complete UNLESS  requirement under  Union or Member State law to preserve that type of data | As set out in the respective Controller’s Privacy Policy  Given the independent controller relationship required above and the factual basis of the relationship with the Supplier there is no international transfer and/or import/export relationship between the Buyer and Supplier and any international transfer would be addressed between the Supplier and the entity to which it is transferred. As such, and whilst committing absolutely that any international transfers are made in accordance with the law, no International Data Transfer Agreements will be necessary between Buyer and Supplier. |

## Annex 2 - Joint Controller Agreement – Not Used 1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 3-16 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 18-28 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake

to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

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

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

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

## 2. Undertakings of both Parties

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

1. report to the other Party every [x] months on:
   1. the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
   2. the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
   3. any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party’s obligations under applicable Data Protection Legislation;
   4. any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
   5. any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

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

1. notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
2. provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
3. not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Deliverables and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
4. request from the Data Subject only the minimum information necessary to provide the Deliverables and treat such extracted information as Confidential Information;
5. ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
6. take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
   1. are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
   2. are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
   3. have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
7. ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
8. nature of the data to be protected;
   1. harm that might result from a Personal Data Breach;
   2. state of technological development; and
   3. cost of implementing any measures;
9. ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
10. ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

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

## 3. Data Protection Breach

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

1. sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; and
2. all reasonable assistance, including:
   * 1. co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
     2. co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;
     3. co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
     4. providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

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

1. the nature of the Personal Data Breach;
2. the nature of Personal Data affected;
3. the categories and number of Data Subjects concerned;
4. the name and contact details of the Supplier’s Data Protection Officer or other relevant contact from whom more information may be obtained;
5. measures taken or proposed to be taken to address the Personal Data Breach; and
6. describe the likely consequences of the Personal Data Breach.

## 4. Audit

4.1 The Supplier shall permit:

1. the Relevant Authority, or a third-party auditor acting under the Relevant

Authority’s direction, to conduct, at the Relevant Authority’s cost, data privacy and security audits, assessments and inspections concerning the Supplier’s data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or

1. the Relevant Authority, or a third-party auditor acting under the Relevant Authority’s direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Deliverables.

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

## 5. Impact Assessments

5.1 The Parties shall:

1. provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and

1. maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

## 6. ICO Guidance

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

## 7. Liabilities for Data Protection Breach

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

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

1. if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
2. if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier’s sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
3. if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
   1. If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction (“Court”) by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
   2. In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the “Claim Losses”):
4. if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
5. if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
6. if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.

## 8. Termination

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

## 9. Sub-Processing

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

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

## 10. Data Retention

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

1. We recommend that you seek specific legal advice on this clause. [↑](#footnote-ref-1)
2. We recommend that you seek specific legal advice on this clause. [↑](#footnote-ref-2)
3. We recommend that you seek specific legal advice on this clause. [↑](#footnote-ref-3)
4. We recommend that you seek specific legal advice on this clause. [↑](#footnote-ref-4)
5. We recommend that you seek specific legal advice on this clause. [↑](#footnote-ref-5)
6. We recommend that you seek specific legal advice on this definition. [↑](#footnote-ref-6)