

Framework Schedule 6

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

Order Form

CALL-OFF REFERENCE:	BC-16564
THE BUYER:	NHS England
BUYER ADDRESS	Quarry House, Quarry Hill, Leeds, LS2 7UE
THE SUPPLIER:	XMA
SUPPLIER ADDRESS:	7 Handley Page Way, Old Parkbury Lane, Colney Street, St. Albans, Hertfordshire, AL2 2DQ.
REGISTRATION NUMBER:	02051703
DUNS NUMBER:	298484148
SID4GOV ID:	

If an electronic purchasing system is used instead of signing as a hard-copy, text below must be copied into the electronic order form **starting from ‘APPLICABLE FRAMEWORK CONTRACT’ and up to, but not including, the Signature block**

It is essential that if you, as the Buyer, add to or amend any aspect of any Call-Off Schedule, then **you must send the updated Schedule** with the Order Form to the Supplier

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated as e-signed.  
It’s issued under the Framework Contract with the reference number RM6068 for the provision of Technology Products and Associated Services.

CALL-OFF LOT(S):

## Framework Schedule 6

- Lot 3 Software & Associated Services

## 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) RM6068
- 3 The following Schedules in equal order of precedence:
  - Joint Schedules for RM6068
    - 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 RM6068
    - Call-Off Schedule 6 (ICT Services)
    - Call-Off Schedule 7 (Key Supplier Staff)
    - Call-Off Schedule 15 (Call-Off Contract Management)
- 4 CCS Core Terms (version 3.0.6)
- 5 Joint Schedule 5 (Corporate Social Responsibility) RM6068
- 6 Annexes A to E Call-Off Schedule 6 (ICT Services)

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



## SFDC TERMS OF USE

These SFDC Terms of Use (“**TOU**”) govern Customer’s use of the Services, and are deemed incorporated by reference into the agreement between Customer and Reseller pursuant to which Reseller is reselling the Services to Customer.

## Framework Schedule 6

# 1. DEFINITIONS

**“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**“Content”** means information obtained by SFDC from publicly available sources or third party content providers and made available to Customer through the Services or pursuant to an Order Form, as more fully described in the Documentation.

**“Customer”** means the entity that has contracted with Reseller to purchase subscriptions to use the Services, subject to the conditions of these TOU. Where Reseller is using the Services for its own purposes, Reseller shall be considered Customer.

**“Customer Data”** means any electronic data or information submitted by or for Customer to the Services, excluding Content and Non- SFDC Applications.

**“Documentation”** means the applicable Service’s [Trust and Compliance](#) documentation, and its usage guides and policies, as updated from time to time, accessible via [help.salesforce.com](http://help.salesforce.com) or login to the applicable Service.

**“Malicious Code”** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

**“Marketplace”** means an online directory, catalog or marketplace of applications that interoperate with the Services, including, for example, the AppExchange at <http://www.salesforce.com/appexchange>, or the Heroku add-ons catalog at <https://addons.heroku.com/>, and any successor websites.

**“Non-SFDC Application”** means a Web-based, mobile, offline or other software application functionality that interoperates with a Service, that is provided by Reseller, Customer, or a third party and/or listed on a Marketplace including as Salesforce Labs or under similar designation. Non-SFDC Applications, other than those obtained or provided by Customer, will be identifiable as such.

**“Order Form”** means the ordering document specifying the Services to be provided under the agreement between Customer and Reseller (which incorporates these TOU by reference), including any addenda, supplements, or additional product specific terms for the Services as required by SFDC.

**“Reseller”** means the entity that has contracted directly with SFDC to resell Services to its Customers and the entity that has contracted directly with Customer for the sale of a subscription to Services.

## Framework Schedule 6

“**SFDC**” means Salesforce, Inc, a Delaware corporation with its principal place of business at Salesforce Tower, 415 Mission Street,  
3rd Floor, San Francisco, California 94105

“**Services**” means the products and services that are ordered by Customer under an Order Form and made available online by SFDC including associated offline or mobile components, as described in the Documentation. “Services” exclude Content and Non-SFDC Applications.

“**User**” means an individual who is authorized by Customer to use a Service for the benefit of Customer, for whom Customer has purchased a subscription, and to whom Customer (or, when applicable, SFDC at Reseller’s request), has supplied a user identification and password. Users may include, for example, Customer’s employees, consultants, contractors and agents, and third parties with which Customer transacts business.

## 2. USE OF SERVICES AND CONTENT

**2.1. Subscriptions.** Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by SFDC regarding future functionality or features.

**2.2. Usage Limits.** Services and Content are subject to usage limits specified in Order Forms or the Documentation.

**2.3. Customer Responsibilities** Customer will (a) be responsible for Users’ compliance with the TOU, Order Forms and the Documentation, (b) be responsible for the accuracy, quality, and legality of Customer Data, the means by which Customer acquired Customer Data, Customer’s use of Customer Data with the Services, and the interoperation of any Non-SFDC Applications with which Customer uses Services or Content, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify SFDC or Reseller promptly of any such unauthorized access or use, and (d) use the Services only in accordance with these TOU, the Documentation, the Acceptable Use and External Facing Services Policy at <https://www.salesforce.com/company/legal/agreements.jsp>, Order Forms and applicable laws and government regulations, and (e) comply with terms of service of any Non-SFDC Applications with which Customer uses Services or Content.. Any use of the Services in breach of the foregoing by Customer or Users that in SFDC’s judgment threatens the security, integrity or availability of SFDC’s services, may result in SFDC’s immediate suspension of the Services, however SFDC will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension.

**2.4. Usage Restrictions.** Customer will not (a) make the Services or Content available to anyone other than Customer or Users, or use Services or Content for the benefit of anyone other than Customer or its Affiliates, unless expressly stated otherwise in an Order Form or the Documentation, (b) sell, resell, license, sublicense, distribute, make available, rent or lease the Services or Content, or include Services or Content in a service bureau or outsourcing offering, (c) use the Services or Non-SFDC Application to store or transmit

## Framework Schedule 6

infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services or Non-SFDC Applications to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (f) attempt to gain unauthorized access to the Services or Content or their related systems or networks, (g) permit direct or indirect access to or use of Services or Content in a way that circumvents a contractual usage limit, or use the Services to access or use any of SFDC's intellectual property except as permitted under these TOU, an Order Form, or the Documentation, (h) modify, copy, or create derivative works based on a Service or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order Form or the Documentation, (j) frame or mirror any part of any Service or Content, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, and (k) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile Services or Content, or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, (3) copy any ideas, features, functions or graphics of the Service, or (4) determine whether the Services are within the scope of any patent.

**2.5. Removal of Content and Non-SFDC Applications.** If Customer receives notice that Content or a Non-SFDC Application must be removed, modified and/or disabled to avoid violating applicable law, third-party rights, or the Acceptable Use and External Facing Services Policy, Customer will promptly do so. If Customer does not take required action in accordance with the above or if in SFDC's judgment continued violation is likely to reoccur, SFDC may disable the applicable Content, Service and/or Non-SFDC Application until the potential violation is resolved. If requested by SFDC, Customer shall confirm such deletion and discontinuance of use in writing and SFDC shall be authorized to provide a copy of such confirmation to any such third party claimant or governmental authority, as applicable. In addition, if SFDC is required by any third party rights holder to remove Content, or receives information that Content provided to Customer may violate applicable law or third-party rights, SFDC may discontinue Customer's access to Content through the Services.

## 3. NON-SFDC PRODUCTS AND SERVICES

**3.1. Non-SFDC Products and Services.** SFDC or third parties may make available (for example, through a Marketplace or otherwise) third-party products or services, including, for example, Non-SFDC Applications and implementation and other consulting services. Any acquisition by Customer of such products or services, and any exchange of data between Customer and any Non-SFDC provider, product or service is solely between Customer and the applicable Non-SFDC provider. SFDC does not warrant or support Non-SFDC Applications or other non-SFDC products or services, whether or not designated by SFDC as "certified" or otherwise, unless expressly provided otherwise in an Order Form. SFDC is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by such Non-SFDC Application or its provider.

**3.2. Integration with Non-SFDC Applications.** The Services may contain features designed to interoperate with Non-SFDC Applications. SFDC cannot guarantee the continued availability of such Service features, and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Non-SFDC Application ceases to make the Non-SFDC Application available for interoperation with the corresponding Service features in a manner acceptable to SFDC.

## 4. PROPRIETARY RIGHTS AND LICENSES

**4.1. Reservation of Rights.** Subject to the limited rights expressly granted hereunder, SFDC, its Affiliates, its licensors and Content providers reserve all rights, title and interest in and to the Services and Content, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

**4.2. Access to and use of Content.** Customer has the right to access and use applicable Content subject to the terms of applicable Order Forms, these TOU and the Documentation.

**4.3. License by Customer to SFDC.** Customer grants SFDC, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit and display any Non-SFDC Applications and program code created by or for Customer using the Services or for use by Customer with the Services, and Customer Data, each as necessary for SFDC to provide and ensure proper operation of, the Services and associated systems in accordance with these TOU and the Documentation. If Customer chooses to use a Non-SFDC Application with a Service, Customer grants SFDC permission to allow the Non-SFDC Application and its provider to access Customer Data as required for the interoperation of that Non-SFDC Application with the Service. Subject to the limited licenses granted herein, SFDC acquires no right, title or interest from Customer or its licensors under these TOU in or to any Customer Data, Non-SFDC Application or such program code.

**4.4. License to Use Feedback.** Customer grants to SFDC and its Affiliates a worldwide, perpetual, irrevocable, royalty-free, license to use and incorporate into its services any suggestions, enhancement, requests, recommendations, correction, or other feedback provided by Customer or its Users, relating to the operation of SFDC's or its Affiliates' services.

**4.5. Federal Government End Use Provisions.** SFDC provides the Services, including related software and technology, for ultimate federal government end use in accordance with the following: The Services consist of "commercial items," as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Services shall be as provided in this TOU, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this TOU specifically granting those rights.

## 5. TERM AND TERMINATION

**5.1. Termination of the Services.** Customer's use of the Services may be immediately terminated and/or suspended, at SFDC's option, upon notice due to: (a) a breach of the

## Framework Schedule 6

terms of these TOU, the Documentation or Order Forms by Customer or any User; or (b) a breach by Reseller of its payment obligations to SFDC with respect to the subscriptions it is reselling to Customer in connection with these TOU.

**5.2. Termination of Reseller's Agreement with SFDC.** Following any termination or expiration of Reseller's agreement with SFDC authorizing Reseller to resell the Services, each Customer subscription to the Services outstanding at the time of such termination or expiration ("**Legacy Order**") shall remain in effect until the end of its subscription term, and shall continue to be governed by these TOU, provided that Customer is not in breach of these TOU and SFDC has received all payments due in connection with such Legacy Orders. Except as provided herein, following a termination or expiration of Reseller's agreement with SFDC, SFDC is under no obligation to provide the Services directly to Customer, or to assume a direct contractual relationship with Customer.

**5.3. Shared Orgs.** Customer acknowledges that if the Services are provisioned in an Org in which SFDC services purchased from SFDC or another third party are also provisioned, access to such Org may be suspended or terminated due to breach of the agreement governing such other SFDC services, and that in no case will any such termination or suspension give rise to any liability to Customer for a refund or other compensation.

**5.4. No Refunds upon Termination.** In no case will any termination, expiration, or suspension of the Services, these TOU, or Reseller's agreement with SFDC give rise to any liability of SFDC to Customer for refunds or damages.

## 6. WARRANTY DISCLAIMER

AS BETWEEN SFDC AND CUSTOMER, SFDC MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT IS PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

## 7. INDEMNIFICATION

Customer will defend SFDC against any claim, demand, suit or proceeding made or brought against SFDC by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, or arising from Customer's use of the Services or Content in breach of these TOU, the Documentation, an Order Form, or applicable law (each a "**Claim Against SFDC**"), and will indemnify SFDC for any damages, attorney fees and costs finally awarded against SFDC as a result of, or for any amounts paid by SFDC under a settlement approved by SFDC in writing of, a Claim Against SFDC; provided that SFDC: (i) promptly gives Customer written notice of the Claim Against SFDC, (ii) gives Customer sole control of the defense and settlement of the Claim Against SFDC (provided that Customer may not settle or defend any Claim Against SFDC unless it unconditionally releases SFDC of all liability), and (iii) provides to Customer all reasonable assistance, at Customer's expense.

## Framework Schedule 6

### 8. NO LIABILITY

IN NO EVENT SHALL SFDC HAVE ANY LIABILITY TO CUSTOMER OR ANY USER FOR ANY DAMAGES RELATED TO CUSTOMER'S PURCHASE OR USE OF THE SERVICES PURSUANT TO THESE TERMS OF USE, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES

BASED ON LOST PROFITS, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### 9. GENERAL

**9.1. Notice.** Any notices that SFDC is required to provide to customers under the Documentation shall be provided by SFDC to the Reseller or Customer as determined by SFDC in its sole discretion based on the circumstances and designated contact information for notices available to SFDC in the Services.

**9.2. Waiver.** No failure or delay by SFDC in exercising any right under these TOU will constitute a waiver of that right.

**9.3. Severability.** If any provision of these TOU is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of these TOU will remain in effect.

**9.4. Further Contact.** SFDC may contact Customer regarding new SFDC service features and offerings.

**9.5. Third Party Beneficiary.** These TOU are between Customer and Reseller; SFDC is not a party to these TOU, however SFDC is a third party beneficiary to the agreement between Customer and Reseller solely as it relates to these TOU.

**9.6. Order of Precedence.** With respect to the subject matter discussed herein, in the event of any conflict or inconsistency between these TOU and any other terms or conditions in Customer's agreement or order form with Reseller, these TOU shall prevail.

**9.7. Titles and Headings.** Titles and headings of sections of this TOU are for convenience only and shall not affect the construction of any provision of this TOU.

Framework Schedule 6

CALL-OFF START DATE:	20/03/2023
CALL-OFF EXPIRY DATE:	19/03/2024
CALL-OFF INITIAL PERIOD:	12 months
CALL-OFF OPTIONAL EXTENSION PERIOD	N/A

**CALL-OFF DELIVERABLES**

Option A:

- Service Cloud UE - 100 Super Users: This will be admin and recruiters to run the back office machine in the organisation.
- Customer Community Plus – Unlimited Edition – 20,000 users
- Marketing Cloud: the comms engine to communicate with the candidates.
- Absorb LMS Hosted with Salesforce Application Licences (quantity: 14,000)
- Absorb LMS set up with Salesforce (portal configuration and UI branding, Admin training, Unlimited storage and support).

**LOCATION FOR DELIVERY**

N/A

**DATES FOR DELIVERY OF THE DELIVERABLES**

Option A: 21/03/2023 licences provided.

**TESTING OF DELIVERABLES**

Option A: None

**WARRANTY PERIOD**

The warranty period for the purposes of Clause 3.1.2 of the Core Terms shall be 90 days.

**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 £405,098.31 Exc VAT.

## Framework Schedule 6

### **CALL-OFF CHARGES**

Option A: £405,098.31 Exc VAT.

The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of a Specific Change in Law or Benchmarking using Call-Off Schedule 16 (Benchmarking) where this is used.

### **REIMBURSABLE EXPENSES**

None

### **PAYMENT METHOD**

BACS

### **BUYER'S INVOICE ADDRESS:**

Invoices will be sent to

NHS England

X24 Payables K005

Phoenix House

Topcliffe Lane

Wakefield

WF3 1WE

Or sent electronically following registration on Tradeshift

<https://go.tradeshift.com>

### **BUYER'S AUTHORISED REPRESENTATIVE**

■■■■ ■■■■  
■■■■ ■■■■@■■■ ■■■■

### **BUYER'S ENVIRONMENTAL POLICY**



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Framework Schedule 6

BUYER’S SECURITY POLICY

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

SUPPLIER’S AUTHORISED REPRESENTATIVE

[Redacted]  
[Redacted]  
[Redacted]@[Redacted]  
[Redacted] Lane, [Redacted]

SUPPLIER’S CONTRACT MANAGER

[Redacted]  
[Redacted]  
[Redacted]@[Redacted]  
[Redacted]

PROGRESS REPORT FREQUENCY

N/A

PROGRESS MEETING FREQUENCY

N/A

KEY STAFF

[Redacted]  
[Redacted]  
[Redacted]@[Redacted]  
[Redacted]

KEY SUBCONTRACTOR(S)

Salesforce and Absorb LMS

Framework Schedule 6

## **COMMERCIALLY SENSITIVE INFORMATION**

Not applicable

## **SERVICE CREDITS**

Not applicable

## **ADDITIONAL INSURANCES**

Not applicable

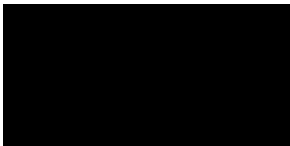
## **GUARANTEE**

Not applicable

## **SOCIAL VALUE COMMITMENT**

Not applicable

For and on behalf of the Supplier:

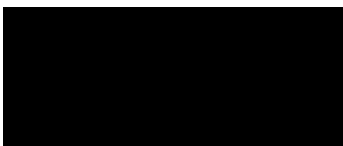


Full Name: 

Job Title/Role: COO

Date Signed: 22-03-23

For and on behalf of Buyer:



Full Name: 

Job Title/Role: Director of Financial Control

Date Signed: 27 March 2023