



## G-Cloud 13 Call-Off Contract

This Call-Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) includes:

**G-Cloud 13 Call-Off Contract**

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## Part A: Order Form

Buyers must use this template order form as the basis for all Call-Off Contracts and must refrain from accepting a Supplier's prepopulated version unless it has been carefully checked against template drafting.

Platform service ID number	[REDACTED]
Atamis Project reference	C257878
Atamis Contract reference	C310782
Call-Off Contract title	NHS Digital Staff Passports_Digital Identity & Right to Work Verification Service
Call-Off Contract description	<p>The provision of verification services to NHS Trust in England, who are registered to use the NHS Digital Staff Passport.</p> <p>The Identity Service Provider (IDSP) must be certified by the UK Government.</p>
Start date	02 September 2024
Expiry date	31 August 2026
Call-Off Contract value	[REDACTED] (incl. Expenses, excl. VAT)
Charging method	Fixed priced payment via BACS
Purchase order number	TBC

This Order Form is issued under the G-Cloud 13 Framework Agreement (RM1557.13).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Services offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with square brackets.

<b>From the Buyer</b>	NHS England Wellington House 133-135 Waterloo Road London SE1 8UG
<b>To the Supplier</b>	Digidentity, 3 Watership Drive, Ringwood, Hants, BH24 1QY
<b>Together the 'Parties'</b>	

Principal contact details

**For the Buyer:**

Title: [REDACTED]

Name: [REDACTED]

Email: [REDACTED]

**For the Supplier:**

Title: [REDACTED]

Name: [REDACTED]

Email: [REDACTED]

### Call-Off Contract term

<b>Start date</b>	<p>This Call-Off Contract is valid for up to 24months from the contract start date, unless formally extended by the Buyer.</p> <p>It is estimated that this Contract will last for up to 24months, with a break clause (unilateral termination for convenience) at the end of 12months.</p> <p>Progressing to Year 2 will be at the Authority's discretion and subject to formal notification.</p> <p>The Authority reserves the right to terminate the contract at the end of the first 12-month period.</p>
<b>Ending (termination)</b>	<p>The notice period needed for Ending the Call-Off Contract is at least 30 Working Days from the date of written notice for undisputed sums or at least 30 days from the date of written notice for Ending without cause.</p>
<b>Extension period</b>	<p>Extensions if required will be progressed in-compliance with the applicable G-Cloud 13 Ts&amp;Cs.</p>

<b>-Cloud Lot</b>	<p>This Call-Off Contract is for the provision of Services Under:</p> <ul style="list-style-type: none"> <li>Lot 3: Cloud support</li> </ul>
<b>G-Cloud Services required</b>	<p>The services to be provided by the Supplier are listed at Schedule 1 and outlined below:</p> <p>Digidentity, the appointed IDSP will deliver the specified services required to digitally verify Identity and Right to Work status of NHS staff (both UK/Irish and non-UK/Irish citizens) as well as provide supplementary information to undertake a DBS check, in accordance with the requirements outlined the Dept of Health &amp; Social Care (DHSC), the Dept of Science Information &amp; Technology (DSIT), The Home Office, DBS and NHS Employers.</p> <p>The specified services will support NHS pre-employment checks and ensure NHS trust employers are compliant with regulatory requirements.</p>

<b>Additional Services</b>	<p>It is expected that the Supplier will work collaboratively with the Authority to explore provisioning of electronic signing certificates, in accordance with UK regulations. This is intended to further empower NHS staff and provide them the control to digitally sign documents and streamline transactions with a high degree of security. Any requirement to this end will be subject to a separate scope of work and subsequent charges.</p> <p>Expected outputs will include:</p> <ul style="list-style-type: none"> <li>• define a candidate use case for a proof of concept.</li> <li>• Deliver a proof of concept.</li> <li>• Review learnings and propose next steps.</li> </ul>
<b>Location</b>	The Services will be performed at the Buyer's offices in The Netherlands (including home working with approved locations) in each case as reasonably agreed between all parties (in the European Economic Area (EEA) and the United Kingdom (UK).
<b>Quality Standards</b>	The quality standards required for this Call-Off Contract will align to industry good practice.
<b>Technical Standards:</b>	The technical standards required for this Call-Off Contract will align to Good Industry Practice. As well as the applicable standards listed within the G-Cloud service offerings.
<b>Service level agreement:</b>	N/A
<b>Onboarding</b>	The team will arrange a kick off call with relevant stakeholders upon commencing the services.

<b>Offboarding</b>	<p>On completion of the Services, the Supplier will hand over all Buyer artifacts and related documentation, and remove any access to relevant Buyer systems from their devices.</p> <p>The Supplier will also delete user accounts after 24months period of inactivity, unless users make use of their account for other Digidentity services.</p>
<b>Collaboration agreement</b>	Not Applicable.

<b>Limit on Parties' liability</b>	This is set out in Clause 24 of the Call Off Contract.
<b>Insurance</b>	<p>The Supplier insurance(s) required will be:</p> <ul style="list-style-type: none"><li>• a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract.</li><li>• Professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires (and as required by Law)]</li><li>• employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law</li></ul>
<b>Buyer's responsibilities</b>	<p>The Buyer is responsible for:</p> <ul style="list-style-type: none"><li>• Granting timely access to relevant systems and documentation on prior request</li><li>• Providing a safe working environment for the Supplier staff if onsite</li><li>• Provide timely access to any relevant personnel and information to the Supplier's team</li></ul> <p>The Supplier will not be deemed in breach of any service levels defined in this contract caused by the Buyer failing to meet any of the responsibilities listed above.</p>
<b>Buyer's equipment</b>	Not Applicable.

<b>Payment method</b>	The payment method for this 'fixed priced' Call-Off Contract will be via BACS.
<b>Payment profile</b>	The payment profile for this contract is <b>Quarterly</b> in arrears; payment will be made on successful completion of specified deliverables/work packages, approved and signed-off as acceptable by the Buyer's representative.
<b>Invoice details</b>	The Supplier will issue electronic invoices <b>Quarterly</b> in arrears. The Buyer will pay the Supplier within 30 days of receipt of a valid undisputed invoice.
<b>Who and where to send invoices to</b>	<p>Invoices will be sent to NHS Shared Business Service either electronically via Tradeshift or by post to the following address:</p> <p>NHS England X24 Payables K005 Phoenix House Topcliffe Lane Wakefield F3 1WE</p> <p>Additional information about the NHS Shared Business Service can be found at their website <a href="#">here</a>.</p> <p>Important changes effective 1 April 2023: <a href="#">NHS England » Important changes for all suppliers trading with NHS England (NHS Digital) and Health Education England – what you need to know</a></p>
<b>Invoice information required</b>	<p>All invoices must include:</p> <ul style="list-style-type: none"> <li>• NHS Purchase Order reference</li> <li>• Supplier project reference</li> <li>• Invoice reference number</li> </ul>
<b>Invoice frequency</b>	<p>Invoices will be sent to the Buyer in accordance with the payment profile as above.</p> <ul style="list-style-type: none"> <li>• [REDACTED] Fixed Cost divided into quarterly invoices of [REDACTED].</li> <li>• Each invoice will cite: <i>'For services including the design, development, implementation of the identity component of the NHS Staff Passport app, including on-going project management, account management support, ad-hoc technical trouble-shooting including hot-fixes and product improvements,</i></li> </ul>

	<p><i>service desk support for user on-boarding support and 12,500 user identity bundle per quarter’.</i></p> <ul style="list-style-type: none"><li>• Where more than 40hours of technical time has been invested before go-live of the tech implementation, any significant change request may affect volume of ID verification entitlement”.</li></ul>
<b>Call-Off Contract value</b>	The total value of this Call-Off Contract is [REDACTED] (including Expenses, excluding VAT).
<b>Call-Off Contract charges</b>	<p>Fixed price payment on satisfactory completion of specified deliverables /work packages as approved by the Authority’s representative on a quarterly basis.</p> <p>Please refer to Schedule 2 for further details.</p>
<b>Subcontractors or partners</b>	Not Applicable.
<b>Performance of the Service</b>	<p>This Call-Off Contract will include an implementation plan, exit and offboarding plans and milestones. This may be replaced by mores specific success criteria after the initial scoping of necessary work.</p> <p>payment will be made on successful completion of specified deliverables/work packages, approved and signed-off as acceptable by the Buyer’s representative.</p>



## 1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

## 2. Background to the agreement

- 2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.13.

**Signed on behalf of the Supplier 1.**

[REDACTED]

Date Signed: 02-10-2024

**Signed on behalf of the Supplier 2.**

[REDACTED]

Date Signed: 02-10-2024

**Signed on behalf of the Buyer**

[REDACTED]

Date Signed: 04/10/2024

2.2 The Buyer provided an Order Form for Services to the Supplier.

**Customer Benefits**

For each Call-Off Contract please complete a customer benefits record, by following this link:

[G-Cloud 13 Customer Benefit Record](#)

## Part B: Terms and conditions

### 1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 36 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 1 period of up to 12 months.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to set the Term at more than 24 months.

### 2. Incorporation of terms

- 2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:
  - 2.3 (Warranties and representations)
  - 4.1 to 4.6 (Liability)
  - 4.10 to 4.11 (IR35)
  - 10 (Force majeure)
  - 5.3 (Continuing rights)
  - 5.4 to 5.6 (Change of control)
  - 5.7 (Fraud)
  - 5.8 (Notice of fraud)
  - 7 (Transparency and Audit)
  - 8.3 (Order of precedence)
  - 11 (Relationship)
  - 14 (Entire agreement)
  - 15 (Law and jurisdiction)
  - 16 (Legislative change)
  - 17 (Bribery and corruption)
  - 18 (Freedom of Information Act)
  - 19 (Promoting tax compliance)
  - 20 (Official Secrets Act)
  - 21 (Transfer and subcontracting)
  - 23 (Complaints handling and resolution)
  - 24 (Conflicts of interest and ethical walls)
  - 25 (Publicity and branding)

- 26 (Equality and diversity)
- 28 (Data protection)
- 31 (Severability)
- 32 and 33 (Managing disputes and Mediation)
- 34 (Confidentiality)
- 35 (Waiver and cumulative remedies)
- 36 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement Schedule 3

2.2 The Framework Agreement provisions in clause 2.1 will be modified as follows:

- 2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'
- 2.2.2 a reference to 'CCS' or to 'CCS and/or the Buyer' will be a reference to 'the Buyer'
- 2.2.3 a reference to the 'Parties' and a 'Party' will be a reference to the Buyer and Supplier as Parties under this Call-Off Contract
- 2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 7 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.
- 2.4 The Framework Agreement incorporated clauses will be referred to as incorporated Framework clause 'XX', where 'XX' is the Framework Agreement clause number.
- 2.5 When an Order Form is signed, the terms and conditions agreed in it will be incorporated into this Call-Off Contract.

### 3. Supply of services

- 3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.
- 3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

### 4. Supplier staff

- 4.1 The Supplier Staff must:

4.1.1 be appropriately experienced, qualified and trained to supply the

Services

4.1.2 apply all due skill, care and diligence in faithfully performing those duties

4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.

4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.

4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35. - **Not applicable.**

4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.

4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.

4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.

4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

## 5. Due diligence

- 5.1 Both Parties agree that when entering into a Call-Off Contract they:
  - 5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
  - 5.1.2 are confident that they can fulfil their obligations according to the Call-Off Contract terms
  - 5.1.3 have raised all due diligence questions before signing the Call-Off Contract
  - 5.1.4 have entered into the Call-Off Contract relying on their own due diligence

## 6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their Service Descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.
- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

## 7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.

- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoices under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

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

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

## 9. Insurance

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

- 9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
- 9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.
- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:
  - 9.4.1 a broker's verification of insurance
  - 9.4.2 receipts for the insurance premium
  - 9.4.3 evidence of payment of the latest premiums due
- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:
  - 9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers
  - 9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances
  - 9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance
- 9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.
- 9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.



9.8 The Supplier will be liable for the payment of any:

9.8.1 premiums, which it will pay promptly

9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

## 10. Confidentiality

10.1 The Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under incorporated Framework Agreement clause

34. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

## 11. Intellectual Property Rights

11.1 Save for the licences expressly granted pursuant to Clauses 11.3 and 11.4, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights ("IPR"s) (whether pre-existing or created during the Call-Off Contract Term) of the other Party or its licensors unless stated otherwise in the Order Form.

11.2 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

11.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Buyer's or its relevant licensor's Buyer Data and related IPR solely to the extent necessary for providing the Services in accordance with this Contract, including the right to grant sub-licences to Subcontractors provided that:

11.3.1 any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Framework Agreement clause 34 (Confidentiality); and

11.3.2 the Supplier shall not and shall procure that any relevant Sub-Contractor shall not, without the Buyer's written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.

11.4 The Supplier grants to the Buyer the licence taken from its Supplier Terms which licence shall, as a minimum, grant the Buyer a non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Supplier's or its relevant licensor's IPR solely to the extent necessary to access and use the Services in accordance with this Call-Off Contract.

11.5 Subject to the limitation in Clause 24.3, the Buyer shall:

- 11.5.1 defend the Supplier, its Affiliates and licensors from and against any third-party claim:
  - (a) alleging that any use of the Services by or on behalf of the Buyer and/or Buyer Users is in breach of applicable Law;
  - (b) alleging that the Buyer Data violates, infringes or misappropriates any rights of a third party;
  - (c) arising from the Supplier's use of the Buyer Data in accordance with this Call-Off Contract; and

- 11.5.2 in addition to defending in accordance with Clause 11.5.1, the Buyer will pay the amount of Losses awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 11.5 shall not apply where and to the extent such Losses or third-party claim is caused by the Supplier's breach of this Contract.

- 11.6 The Supplier will, on written demand, fully indemnify the Buyer for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:

- 11.6.1 rights granted to the Buyer under this Call-Off Contract

- 11.6.2 Supplier's performance of the Services

- 11.6.3 use by the Buyer of the Services

- 11.7 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:

- 11.7.1 modify the relevant part of the Services without reducing its functionality or performance

- 11.7.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer

- 11.7.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer

- 11.8 Clause 11.6 will not apply if the IPR Claim is from:

- 11.8.1 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract

### 11.8.2 other material provided by the Buyer necessary for the Services

- 11.9 If the Supplier does not comply with this clause 11, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

## 12. Protection of information

- 12.1 The Supplier must:

12.1.1 comply with the Buyer's written instructions in Schedule 7 and this Call-Off Contract when Processing Buyer Personal Data

12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body

12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes

- 12.2 The Supplier must fully assist with any complaint or request for Buyer Personal Data including by:

12.2.1 providing the Buyer with full details of the complaint or request

12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions

12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)

12.2.4 providing the Buyer with any information requested by the Data Subject

- 12.3 The Supplier must get prior written consent from the Buyer to transfer Buyer Personal Data to any other person (including any Subcontractors) for the provision of the G-Cloud Services.

### 13. Buyer data (Please refer to Schedule 7)

Data.

- 13.1 The Supplier must not remove any proprietary notices in the Buyer
- 13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.
- 13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.
- 13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.
- 13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.
- 13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:
  - 13.6.1 the principles in the Security Policy Framework: <https://www.gov.uk/government/publications/security-policy-framework> and the Government Security - Classification policy: <https://www.gov.uk/government/publications/government-security-classifications>
  - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management: <https://www.npsa.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets: <https://www.npsa.gov.uk/sensitive-information-assets>
  - 13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance: <https://www.ncsc.gov.uk/collection/risk-management-collection>
  - 13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint: <https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>

13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance: <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

13.6.6 Buyer requirements in respect of AI ethical standards.

13.7 The Buyer will specify any security requirements for this project in the Order Form.

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

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

13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

## 14. Standards and quality

14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at: <https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>

14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.

14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.

14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN

Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

## 15. Open source

- 15.1 All software created for the Buyer must be suitable for publication as open source, unless otherwise agreed by the Buyer.
- 15.2 If software needs to be converted before publication as open source, the Supplier must also provide the converted format unless otherwise agreed by the Buyer. – **Not Applicable.**

## 16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services. **Not Applicable.**
- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
  - 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
  - 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control

- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information. Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:  
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

## 17. Guarantee

- 17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:
  - 17.1.1 an executed Guarantee in the form at Schedule 5
  - 17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

## 18. Ending the Call-Off Contract

- 18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.
- 18.2 The Parties agree that the:
  - 18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided
  - 18.2.2 Call-Off Contract Charges paid during the notice period are reasonable compensation and cover all the Supplier's avoidable costs or Losses
- 18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums

available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

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

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

- 18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

- 18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

- 18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

## 19. Consequences of suspension, ending and expiry

- 19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

- 19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the ordered G-Cloud Services until the dates set out in the notice.

- 19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.



19.4 Ending or expiry of this Call-Off Contract will not affect:

19.4.1 any rights, remedies or obligations accrued before its Ending or expiration

19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry

19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses

- 7 (Payment, VAT and Call-Off Contract charges)
- 8 (Recovery of sums due and right of set-off)
- 9 (Insurance)
- 10 (Confidentiality)
- 11 (Intellectual property rights)
- 12 (Protection of information)
- 13 (Buyer data)
- 19 (Consequences of suspension, ending and expiry)
- 24 (Liability); and incorporated Framework Agreement clauses: 4.1 to 4.6, (Liability), 24 (Conflicts of interest and ethical walls), 35 (Waiver and cumulative remedies)

19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires.

19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:

19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer

19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

## 20. Notices

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

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

## 21. Exit plan

21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.

21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.

21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 36 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 30 month anniversary of the Start date.

21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at

the expiry of the proposed extension period or if the contract Ends during that period.

- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to take the Term beyond 36 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
  - 21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the period on terms that are commercially reasonable and acceptable to the Buyer
  - 21.6.2 there will be no adverse impact on service continuity
  - 21.6.3 there is no vendor lock-in to the Supplier's Service at exit
  - 21.6.4 it enables the Buyer to meet its obligations under the Technology Code of Practice
- 21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.
- 21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:
  - 21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
  - 21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
  - 21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
  - 21.8.4 the testing and assurance strategy for exported Buyer Data

21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations

21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

## 22. Handover to replacement supplier

22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

22.1.2 other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

## 23. Force majeure

23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 30 consecutive days, the other Party may End this Call-Off Contract with immediate effect by written notice.

## 24. Liability

24.1 Subject to incorporated Framework Agreement clauses 4.1 to 4.6, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract shall not exceed the greater of five hundred thousand pounds (£500,000) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Year (or such greater sum (if any) as may be specified in the Order Form).

24.2 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Supplier's liability:

24.2.1 pursuant to the indemnities in Clauses 7, 10, 11 and 29 shall be unlimited; and

24.2.2 in respect of Losses arising from breach of the Data Protection Legislation shall be as set out in Framework Agreement clause 28.

24.3 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Buyer's liability pursuant to Clause 11.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).

24.4 When calculating the Supplier's liability under Clause 24.1 any items specified in Clause 24.2 will not be taken into consideration.

## 25. Premises

25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

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

25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

25.4 This clause does not create a tenancy or exclusive right of occupation.

25.5 While on the Buyer's premises, the Supplier will:

25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises

25.5.2 comply with Buyer requirements for the conduct of personnel

25.5.3 comply with any health and safety measures implemented by the Buyer

25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

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

## 26. Equipment

- 26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.
- 26.2 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.
- 26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

## 27. The Contracts (Rights of Third Parties) Act 1999

- 27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This does not affect any right or remedy of any person which exists or is available otherwise.

## 28. Environmental requirements

- 28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.
- 28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

## 29. The Employment Regulations (TUPE) Not Applicable.

- 29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.
- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
  - 29.2.1 the activities they perform
  - 29.2.2 age
  - 29.2.3 start date

- 29.2.4 place of work
- 29.2.5 notice period
- 29.2.6 redundancy payment entitlement
- 29.2.7 salary, benefits and pension entitlements
- 29.2.8 employment status
- 29.2.9 identity of employer
- 29.2.10 working arrangements
- 29. 2.11 outstanding liabilities
- 29.2.12 sickness absence
- 29.2.13 copies of all relevant employment contracts and related documents
- 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.

- 29.3 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.4 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.5 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
  - 29.5.1 its failure to comply with the provisions of this clause
  - 29.5.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.6 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.7 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

### 30. Additional G-Cloud services

- 30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.
- 30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

### 31. Collaboration

- 31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.
- 31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:
  - 31.2.1 work proactively and in good faith with each of the Buyer's contractors
  - 31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

### 32. Variation process

- 32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.
- 32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.
- 32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

### 33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clause 28 of the Framework Agreement is incorporated into this Call-Off Contract.



For reference, the appropriate UK GDPR templates which are required to be completed in accordance with clause 28 are reproduced in this Call-Off Contract document at Schedule 7.

CONFIDENTIAL

# Schedule 1: Services

## 1. OVERVIEW OF THE AUTHORITY

NHS England (NHSE) is looking to procure a UK government certified identity service provider (IDSP). The IDSP will provide identity verification service including Disclosure and Barring Service (DBS) eligibility and Right to Work (RTW) checks service to NHS trusts in England, who are registered to use the NHS Digital Staff Passport.

This procurement will be for an undefined but limited period, while the NHS Digital Staff Passport is in phase one of its pilot. During this period, testing will be carried out with feedback sought from multiple parties, therefore the successful supplier will be expected to be flexible and agile to change requests to ensure success of the NHS DSP. Lessons from phase 1 will be documented to inform future phases of our work. A further procurement exercise will be undertaken to identify an IDSP for the future phase of the NHS Digital Staff Passport service, at a time when the programme is deemed ready.

The procured certified IDSP will complete the checks (identity, DBS eligibility and RTW) and issue the verification outcome of each check into a digital wallet e.g. Microsoft Authenticator as a W3C verifiable credential, so that the outcome of checks is tamper-proof and trustworthy.

The successful IDSP will be expected to collaborate with the NHSE team to ensure the identity verification flow for this proposal:

1. Integrates seamlessly with existing NHS Digital Staff Passport flow.
2. Includes a mechanism for periodic refresh and checking that identity, DBS eligibility and RTW credentials are authentic, not revoked, and valid.

## 2. BACKGROUND TO YOUR REQUIREMENT

The NHS has committed in the Long-Term Plan to enable “staff to move more easily from one NHS Employer to another.” This was emphasised in the Interim People Plan and re-emphasised in subsequent NHS strategy documents. The 2023/24 NHS operational planning guidance also speaks to the need for flexible workforce deployment of staff across organisational boundaries using digital solutions, such as the Digital Staff Passport. [The NHS Long Term Workforce Plan](#) specifically mentions the NHS Digital Staff Passport and expected full roll out by August 2025.

This procurement is therefore contributing to the delivery of a key NHS ambition to enable staff to move and provide a positive onboarding experience to NHS staff.

## **NHS Digital Staff Passport**

The NHS Digital Staff Passport (DSP) is a trusted and secure digital means by which NHS employees can digitally transfer their key employment data between different NHS employers and into their respective workforce systems. The DSP facilitates an adaptable and agile workforce who can move seamlessly between NHS trusts in a way that safeguard services and patients.

The NHS DSP prevents the need for unnecessary repetition and duplication of checks when NHS staff are being deployed between NHS trusts, to deliver or support clinical care. These checks which are predominantly completed manually and through face-to-face (in-person) appointments include identity, RTW, DBS eligibility and training among others. This procurement aims to digitally integrate the identity, RTW and DBS eligibility part of the NHS pre-employment checking process into the NHS DSP solution and ultimately contribute to the improvement in staff experience and reduction in administrative workload that the NHS DSP is delivering during onboarding.

## **3. THE AUTHORITY'S REQUIREMENT**

### **Objectives**

The objectives of this procurement exercise are:

- To secure an identity verification service that meets the UK's Digital Identity and Attributes Trust Framework (UKDIATF) and the NHS Digital Identity requirements.
- To enable NHS trusts to satisfy their legal obligation for identity, DBS eligibility and RTW checks of their employees.
- For NHS trusts to have assurance that the digital identity credentials shared by their staff through the NHS Digital Staff Passport meets a high level of confidence as defined in the GPG45.
- To test the most optimal approach for identity, DBS eligibility and RTW verification, and communicating of outcomes of checks between IDSPs, NHS staff and NHS trusts.
- For the IDSP verification workflow to be updated to seamlessly integrate with the NHS Digital Staff Passport workflow and provide ease of access to staff members, facilitating adoption of digital identity within the NHS.
- For the outputs of IDSP verification to be easily usable beyond the NHS and by the wider economy.

### **Requirements and Deliverables**

The Specification Requirements which must be met by the IDSP providing identity verification, RTW and DBS eligibility check services to NHS Trusts

are detailed in the [NHS Digital Identity Requirement publication](#). These include issuing outcome of identity, RTW and DBS eligibility checks as verifiable credentials, in accordance with the Technical Trust Framework for Verifiable Credentials and its Data Schema which are located [here](#).

### Other Core Requirements

- **Seamless integration and hand-off:** the NHS DSP has a well-developed user journey which has been co-developed with NHS staff. The successful IDSP must make sure that the IDSP verification journey fits seamlessly within existing DSP design and ensure the transfer between the 2 functions are intuitive, does not lead to any pain point or a break in user flow. Therefore, some user interface design (UI) will need to be completed by the IDSP through constructive collaboration with NHS England to ensure NHS staff benefit from a good user experience and the IDSP journey does not make the DSP unusable or difficult to use, irrespective of the device in use by the NHS staff.
- **Verifications:** credentials issued by the IDSP must be periodically and digitally verifiable for their authenticity and validity with the IDSP, without the need for staff to represent their documentary evidence, unless necessary such as in the case of an expired passport.
- **Revocation:** credentials must be revoked where it is discovered to be invalid during verification.
- **Technical and non-technical delivery:** any mechanism for ongoing verification of credentials via the NHS Digital Staff Passport e.g. API integration with the staff passport, must be fully considered to ensure NHS trusts can meet their business obligations.
- **Data Minimisation:** principles to be applied to the service.
- **Certification:** the IDSP will be expected to become certified against the NHS Digital Identity Scheme when it is published by the UK government.
- **Timeline:** it is expected that any development work to support the requirements of this invitation to tender will be completed within 6 weeks of contract award.
- **User experience:** to offer a seamless and consistently positive identity, RTW and DBS eligibility verification experience to NHS organisations and their staff, including non-UK/Irish citizens.
- **Service availability:** 24x7x365; 99.5% service availability.
- **Service incident:**

Severity	Initial Response (Time)	Remediation/restoration of service (time)	Description
Severity 1	1 hour	4 hours	Total outage/inaccessibility of Service.
Severity 2	2 hours	8 hours	Significant adverse impact on the provision of the service to a small or moderate number of end users.
Severity 3	5 hours	20 hours (Monday - Friday 8am - 6pm excluding bank holidays)	Moderate adverse impact on the provision of the service to a moderate number of end users.
Severity 4	24 hours	80 hours (Monday - Friday 8am - 6pm excluding bank holidays)	Minor adverse impact on the provision of the service to a very small number of users.
Severity 5	48 hours	200 hours (Monday - Friday 8am - 6pm excluding bank holidays)	Service failure affecting only the presentation of the service that does not undermine the end user's confidence in the information being displayed or the ability to use key functionality of the service.

The above key requirements are non-negotiable and must be considered as part of the quote.

To support a full understanding of this Statement of Requirements, the following additional documents are provided here: [Technical implementation documentation - NHS England Digital](#):

1. Technical Trust Framework for Verifiable Credentials
2. Data Schema for Technical Trust Framework for Verifiable Credentials
3. NHS Digital Identity Scheme Requirements

## 4. BASE LOCATION

No requirement for physical on-site presence.

## 5. PRICING AND PAYMENT

It is estimated that this contract will last up to 24 months with a break clause (unilateral termination for convenience) at the end of 12 months. Progressing to year 2 will be at the Authority's discretion and subject to formal notification.

The Authority reserves the right to end the contract at the end of the first 12-month period.

Suppliers are expected to propose their best pricing model which as a minimum will cover:

- Delivery of requirements above (NHS Digital Identity Requirements and other core requirements) including technical and non-technical delivery, seamless integration and handoff, verifications etc

- Initial verifications of identity, RTW and DBS eligibility checks.
- Subsequent validity checks of identity, RTW and DBS eligibility checks.

Proposed pricing will be inclusive of Expenses and exclusive of VAT, with any expected reduction in cost after a defined volume of verifications. Awarded pricing shall remain fixed for the full term of this Call-Off Contract.

The payment profile for this Call-Off Contract is fixed priced via BACS made quarterly in arrears.

The attached Bid Template (Appendix A) should be submitted as part of the proposal, alongside a standard rate card.

- The budget envelope has been capped at **£250,000 exclusive of VAT**. Suppliers are expected to submit a competitive bid within the budget envelope.
- Please note that this is not a target, and we expect Suppliers to submit fee proposals that are competitive and represent value for money.
- Bids which exceed the above stated envelope will be disqualified.
- Please provide a fixed price using the template provided (inclusive of Expenses and excluding VAT) for the delivery of the requirements.
- Any assumptions made or dependencies must be included with your price submission.
- Evaluation criteria outlines that pricing comprises 20% of the overall score.
- Price submissions will be assessed by NHSE Procurement and scored relative to the lowest cost compliant proposal (with the lowest cost compliant proposal scoring 20%).

In the instance that deliverables and milestones change during the contract period, a formal change control process will be followed, and the submitted rate card shall be used to re-cost any deliverables.

Details of payments are as follows:

1. The requisition must be raised and approved for the Purchase Order prior to any invoice submissions.
2. The partner shall be set up on the Oracle system for all payments.
3. All invoices should be addressed to:  
NHS England  
  
X24 Payables K005  
  
PO Box 312  
  
Leeds  
  
LS11 1HP
4. All invoices must be signed off by the budget holder upon the delivery of milestones, in accordance with the milestone payment plan, and correctly receipted for the payment to the supplier.

## 6. STAFF VETTING, EXPERIENCE AND QUALIFICATIONS

No requirement for staff vetting – this procurement is to procure an identity, RTW and DBS eligibility checking service that integrates with the NHS DSP.

## 7. KEY MILESTONES

The expected contract duration for WP01 and WP02 is 12-months.

The focus of the service required will be to develop the identity, RTW and DBS eligibility checking service, following the [NHS Digital Identity Requirements](#) against the following work packages.

<b>WP01</b>	<b>Develop the service</b> <ul style="list-style-type: none"> <li>• Work with NHSE team (technical supplier and business lead) to design, iterate and integrate the identity and right to work verification service into the NHS DSP in UAT environment.</li> <li>• Work with NHSE to test and deploy service to Production.</li> </ul>
<b>WP02</b>	<b>Run and maintain the service</b> <ul style="list-style-type: none"> <li>• Support, improvement and maintenance of the service, including an agreed SLA for third line support.</li> </ul>

## 8. SUPPLIER'S RESPONSIBILITIES

The supplier will be responsible for building, running and maintaining the identity, RTW and DBS eligibility checking service. This includes support in User Acceptance Testing (UAT) for the full end-to-end flow for the service integrated with the NHS DSP.

## 9. AUTHORITY'S RESPONSIBILITIES

NHSE will ensure that the supplier is granted appropriate access to programme documentation and relevant ICT solutions.

NHSE will work with the supplier to sign off on UAT before go live of the service in private beta.

## 10. SOCIAL VALUE COMMITMENTS

The Social Value Model requires additional social value benefits to be delivered over the life of a contract. Although it is interesting to understand a supplier's social value credentials at organisational level, this is not relevant within the evaluation of a supplier's proposal for this contract. Therefore, it is important to ensure the social value responses are not activities already being undertaken by the supplier and must be a stand-alone contribution as part of this project of work.

## 11. REPORTING AND KEY PERFORMANCE INDICATORS

KPI	Metric	Measurement
Governance	Timely and accurate reports detailing status, progress against timeline, dependencies, risks, issues, success rate, failure rate and tracking against budget.	<ul style="list-style-type: none"> <li>• Quality of material</li> <li>• Monthly</li> <li>• Ad hoc as requested</li> </ul>
	Participation at regular stand ups and update meetings with SRO and team leadership .	<ul style="list-style-type: none"> <li>• Weekly attendance as required</li> <li>• Preparedness for meeting</li> <li>• Good input in update/discussions</li> </ul>
	Attendance and presenting at governance meetings, including preparing papers in advance, as required.	<ul style="list-style-type: none"> <li>• Monthly attendance</li> <li>• Preparedness for meeting</li> <li>• Good input in update/discussions</li> </ul>
Implementation	Clear delivery plans	<ul style="list-style-type: none"> <li>• Clear plans including resource required to deliver required outputs</li> </ul>
	Timely delivery	<ul style="list-style-type: none"> <li>• Timely provision of key requirements to the NHS e.g. test data, test URL</li> </ul>
Effectiveness	Compliance with requirements	<ul style="list-style-type: none"> <li>• Delivery in alignment with the Technical Trust Framework and its schema</li> <li>• Review of service provision to ensure the agreed commission is being delivered</li> <li>• Certification against the NHS Digital Identity Scheme when its available</li> </ul>
	User experience	<ul style="list-style-type: none"> <li>• User-friendly approach to verification and re-verification</li> <li>• User friendly approach to error handling</li> <li>• Clear messaging to the users about next steps</li> <li>• Timely improvement to user flow, as required</li> </ul>



	Reliability and success rate	<ul style="list-style-type: none"> <li>• Success and failure rate</li> <li>• Remediating identified issues</li> </ul>
	Flexibility and agility	<ul style="list-style-type: none"> <li>• Flexibility, timely and agile responses to change requests</li> </ul>
	Scalability	<ul style="list-style-type: none"> <li>• Meet growing needs and demands</li> </ul>
	Security	<ul style="list-style-type: none"> <li>• Robust measures to prevent loss of PII and fraud</li> </ul>
	Integration with the NHS DSP	<ul style="list-style-type: none"> <li>• Seamless integration with the NHS DSP</li> </ul>

## 12. EVALUATION PROCESS AND CRITERIA

Bidder submissions will be assessed on both Technical, Social Value and Price using the weightings below:

Criteria number	Criteria	Weightings
1	Technical/Quality	<b>70%</b>
2	Social Value	<b>10%</b>
3	Price	<b>20%</b>
<b>Total</b>		<b>100%</b>

### Technical:

Supplier submissions will be scored by reviewing each question within the quality section of the evaluation, in accordance with the following criteria:

Score	Assessment	Interpretation
5	Very High Standard	Excellent level of detail and assurance – no reservations about acceptability and elements of meaningful added value included.

4	High Standard	Excellent level of detail and assurance – only very minor reservations presented, and aspects of added value may be present, but these are not considered material.
3	Reasonable Standard	Sufficient level of detail and assurance – some reservations about acceptability. Added value may be present.
2	Limited Standard	Limited level of detail and significant reservations around acceptability.
1	Not acceptable	Insufficient detail has been provided and/or the response gives major cause for concern.

**Price (20%)**

The financial weighted score is calculated by using the following formula:

Tenderers Price Weighted Score = 
$$\frac{\text{Lowest Total Cost offered}}{\text{Tenderer Total Cost}} \times (20\% \text{ weighting})$$

(Lowest Total Cost divided by Tender Total Cost multiplied by 20)

The financial score will be calculated to two decimals places.

Therefore, the bidder who submits the lowest compliant bid (based on the pricing model created for evaluation purposes) will receive the full 20% available.

The capped maximum bid price is **£250,000** (excluding VAT. Proposals received that exceed the capped maximum bid price will not be evaluated and will be disqualified.

13. INDICATIVE PROCUREMENT TIMETABLE

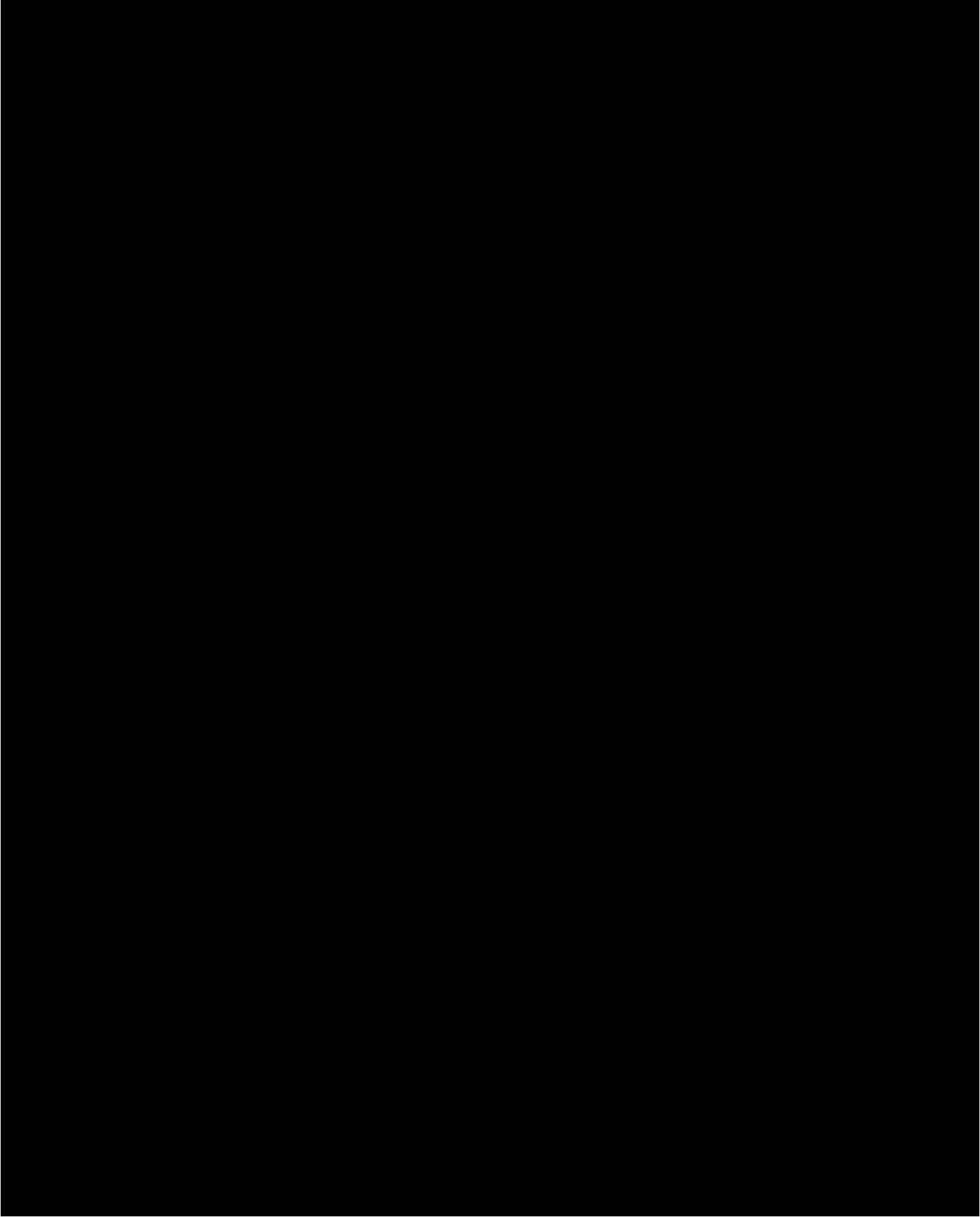
Activity	Date
Statement of Requirements advertised to suppliers shortlisted against requirements and registered at G-Cloud 13, Lot 4	25 <sup>th</sup> March 2024
Deadline for supplier clarification questions.	5 <sup>th</sup> April 2024 by 5pm
Deadline for Bidder submissions.	17 <sup>th</sup> April by 12 noon
Evaluation of bids (assessment and moderation / meeting)	17 <sup>th</sup> April – 26 <sup>th</sup> April

Subject to internal governance approval, contract award notification is anticipated	w/c 29th April
Contract implementation	w/c 13 <sup>th</sup> May

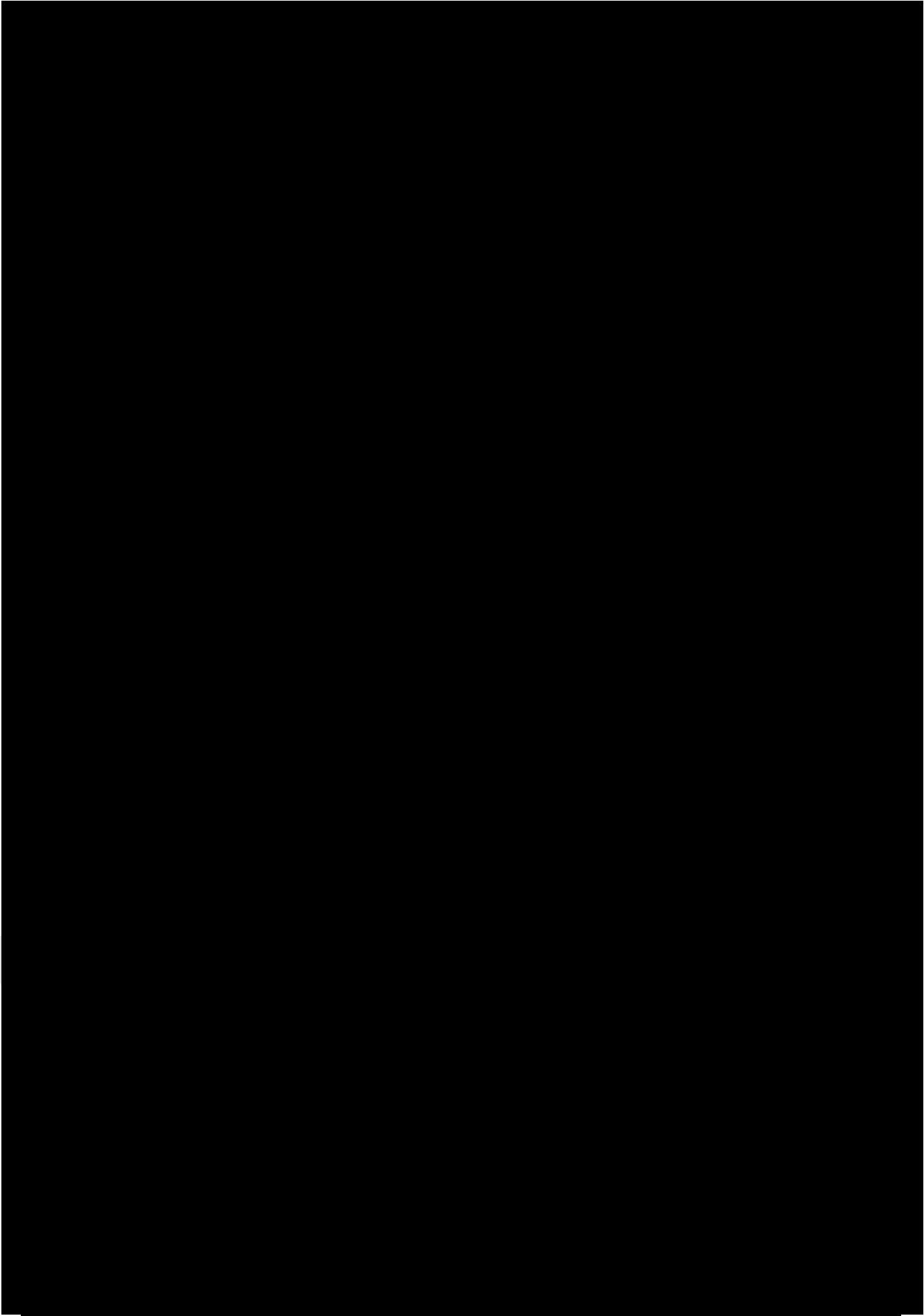
**Note:** commencement of this service is subject to confirmation of budget availability which is expected in the financial year 2024/2025. NHS England reserves the right to alter the proposed timing detailed above.

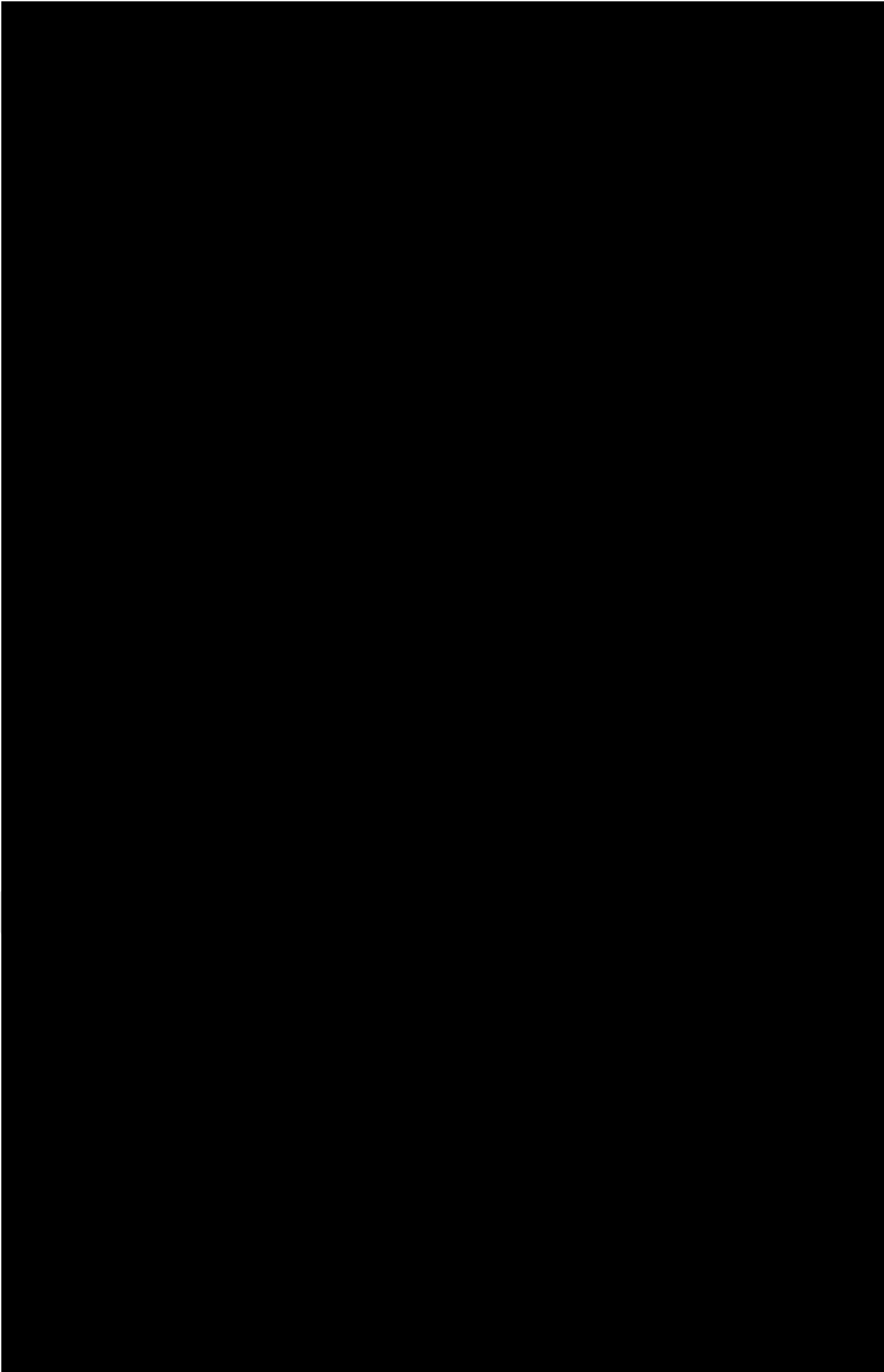
**End.**

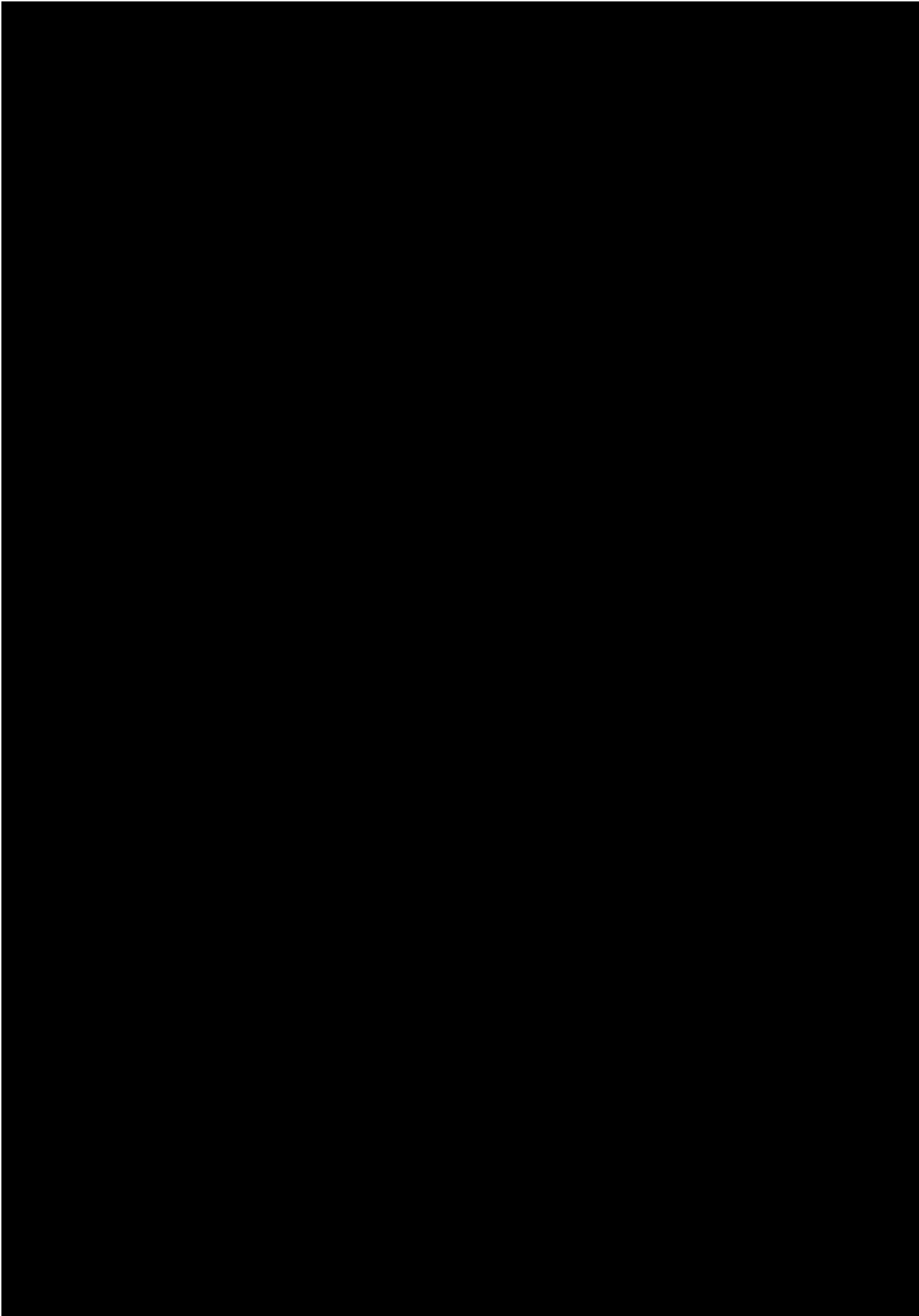
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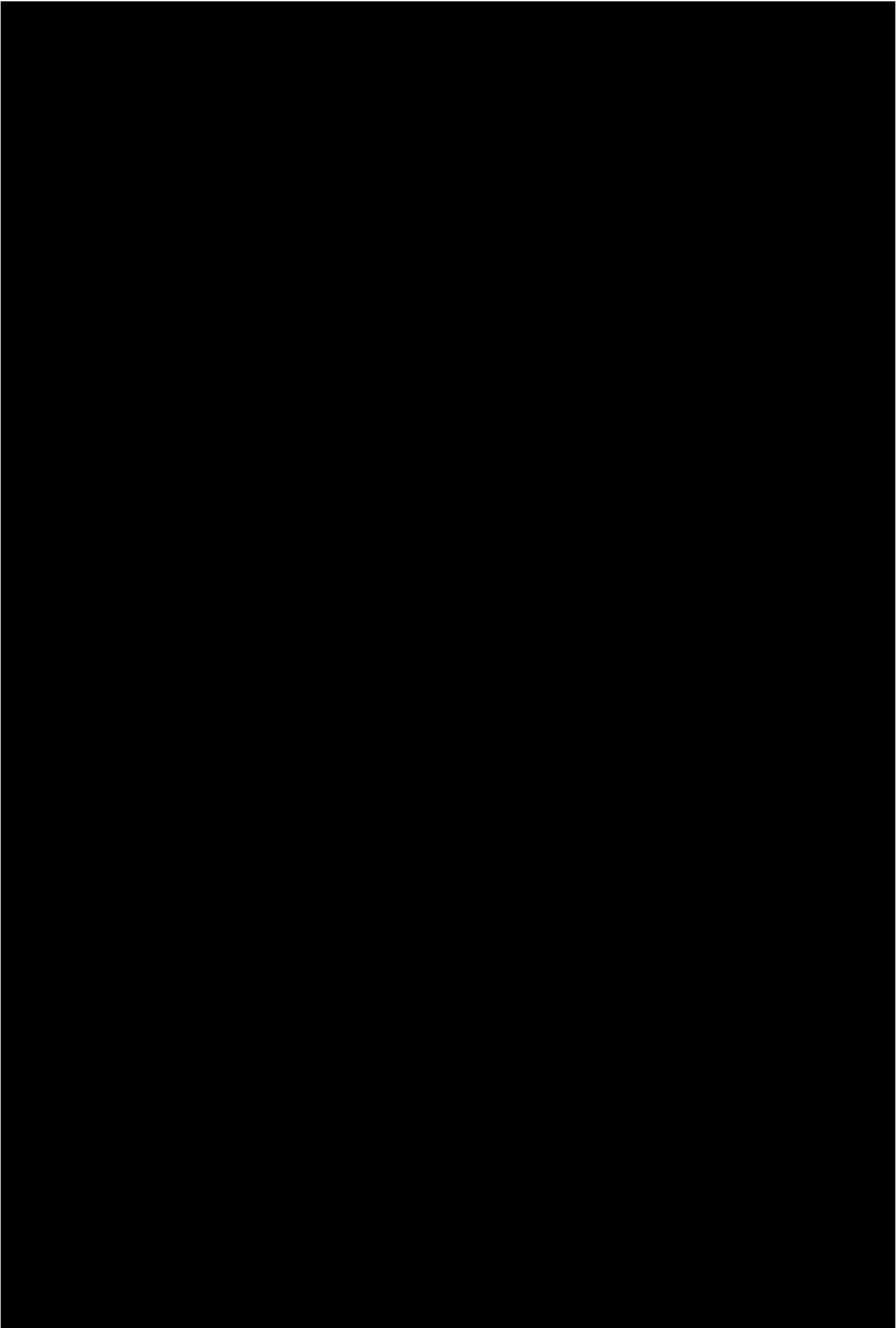
[REDACTED]

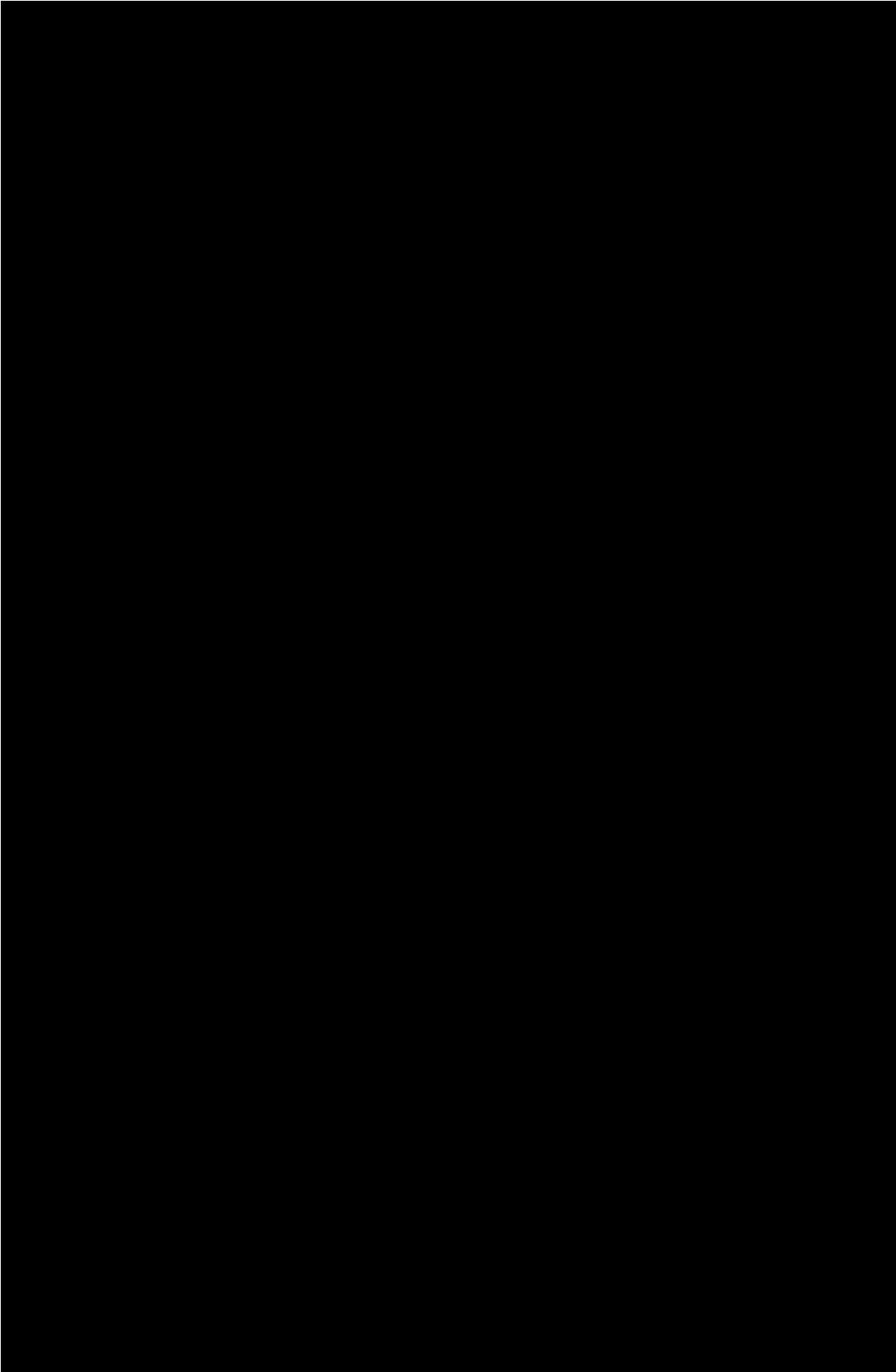


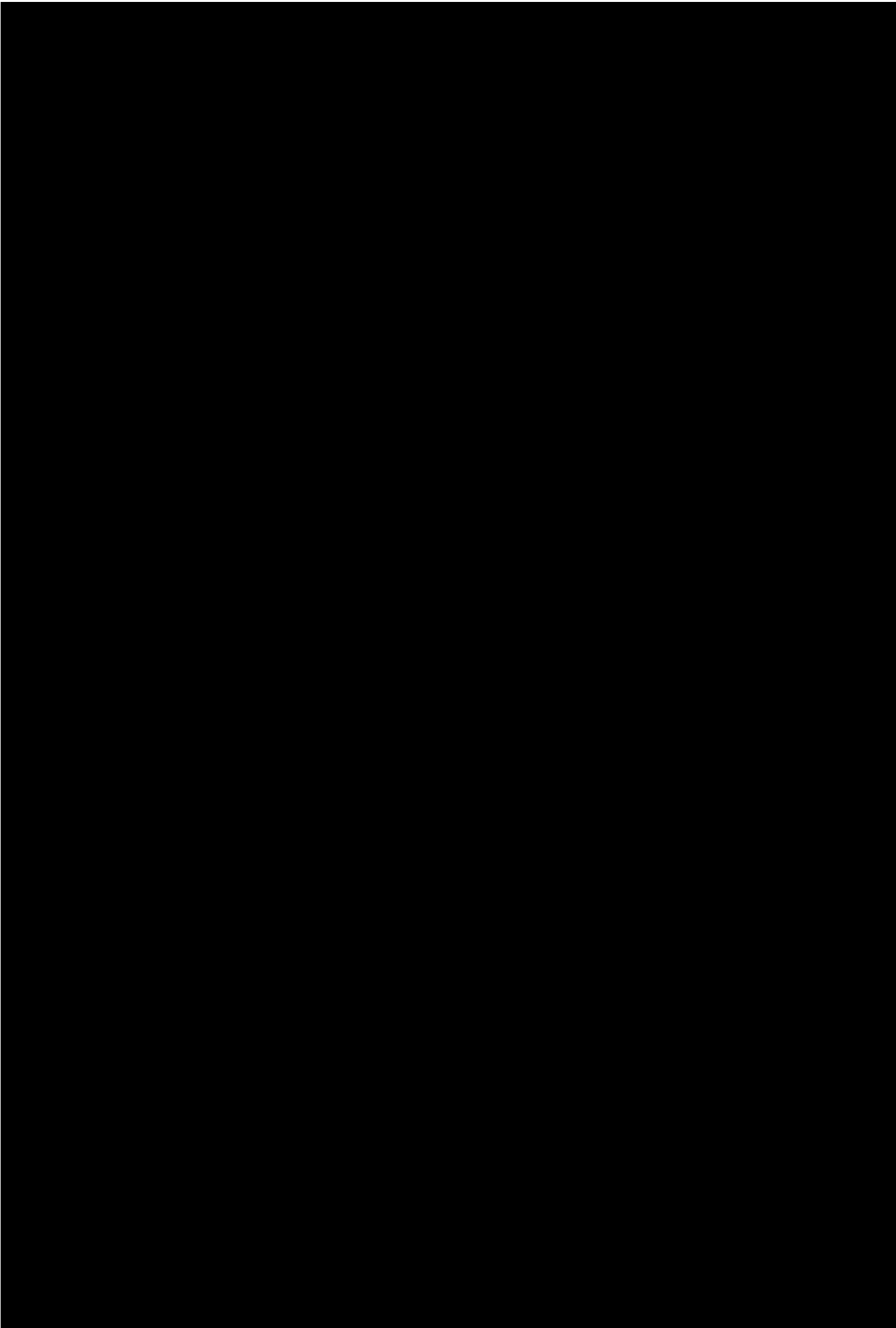


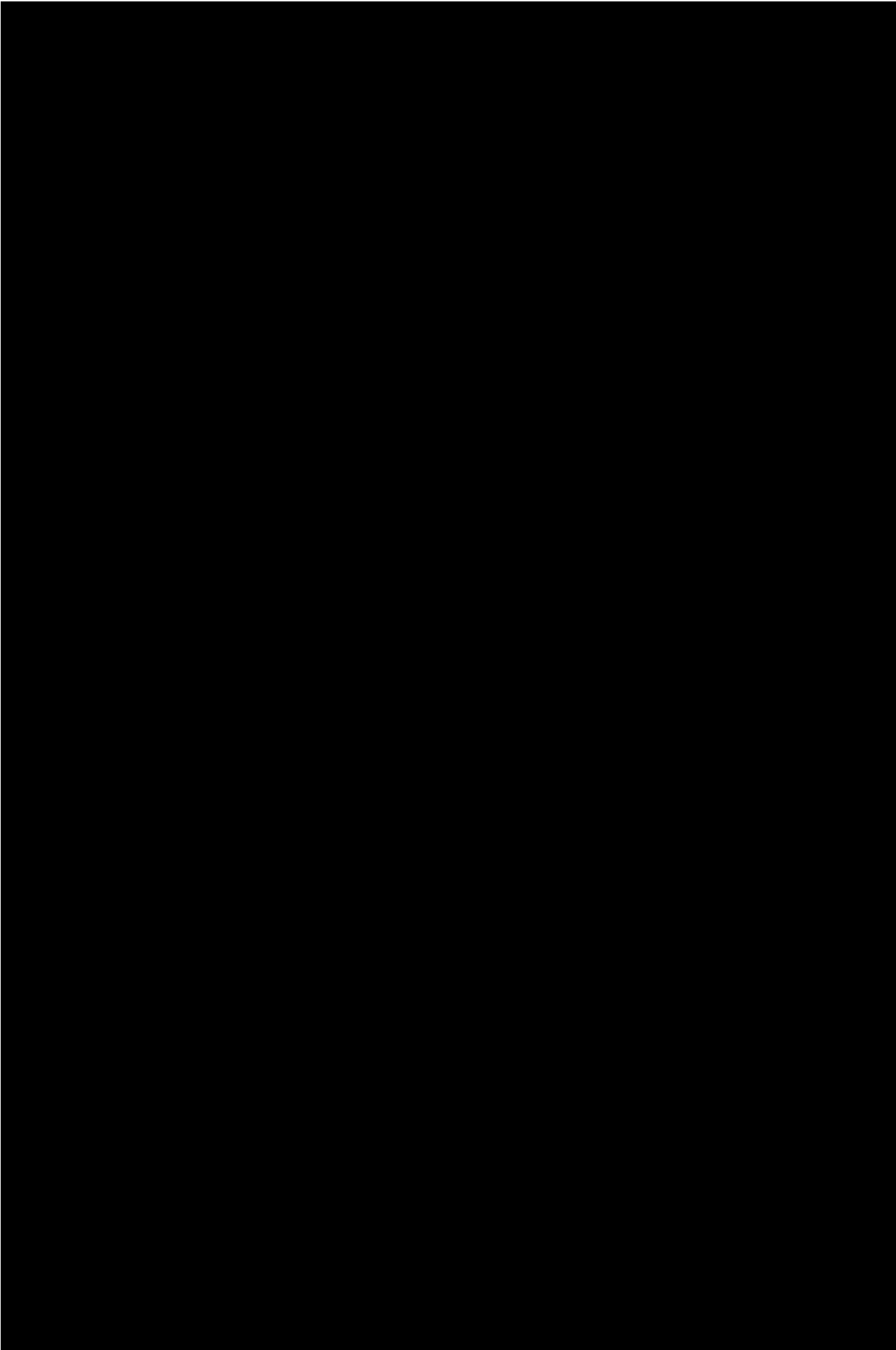


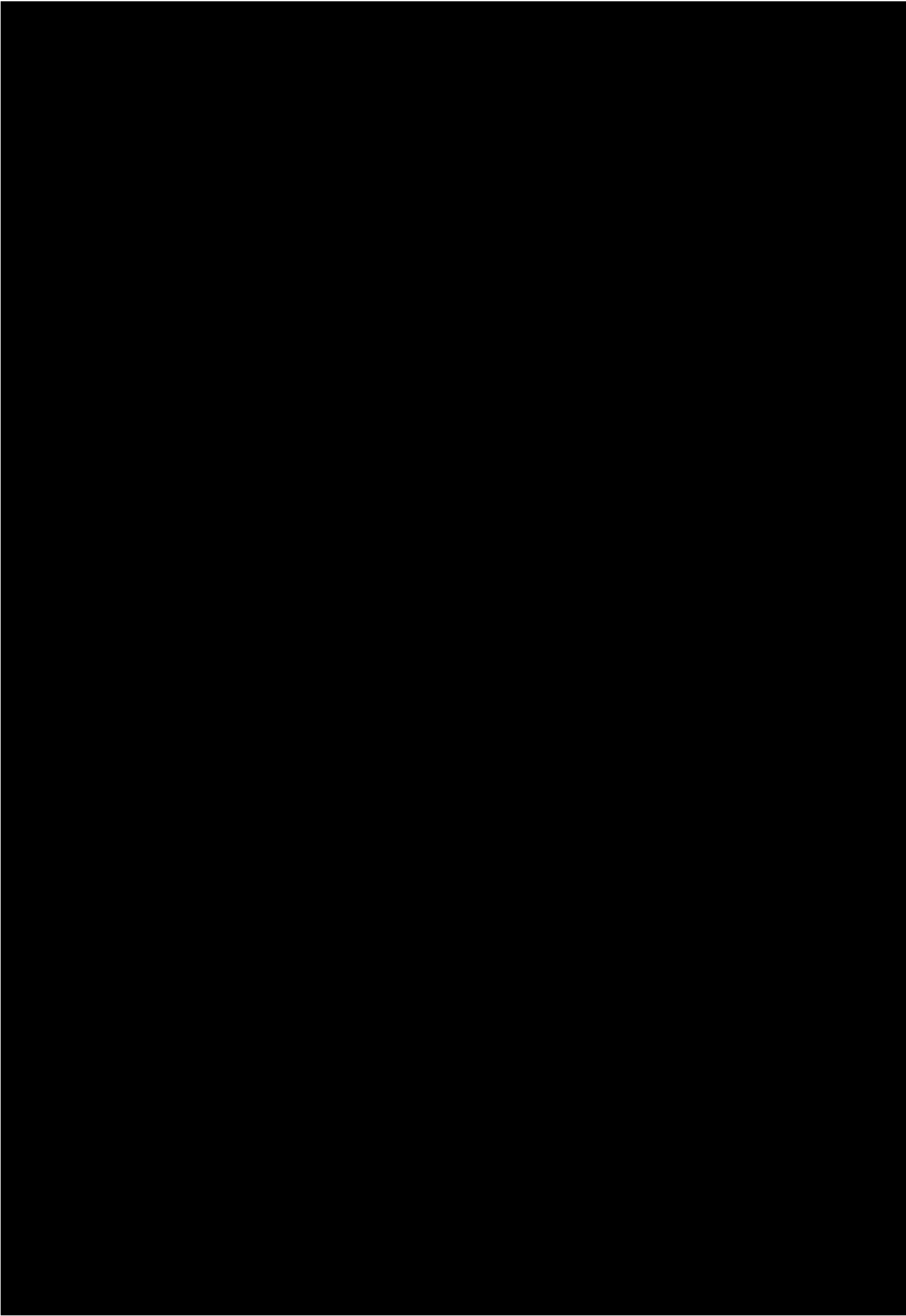


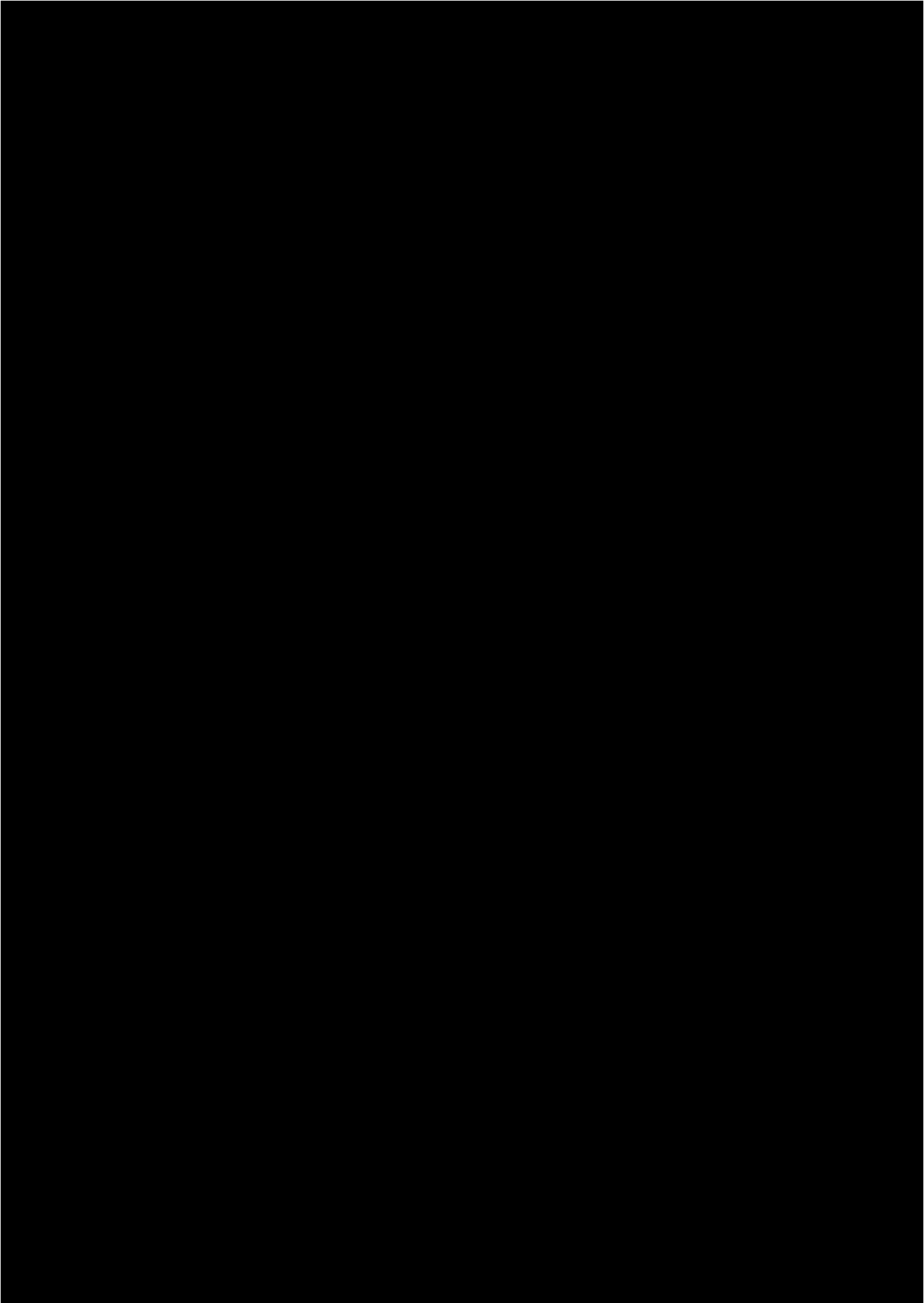


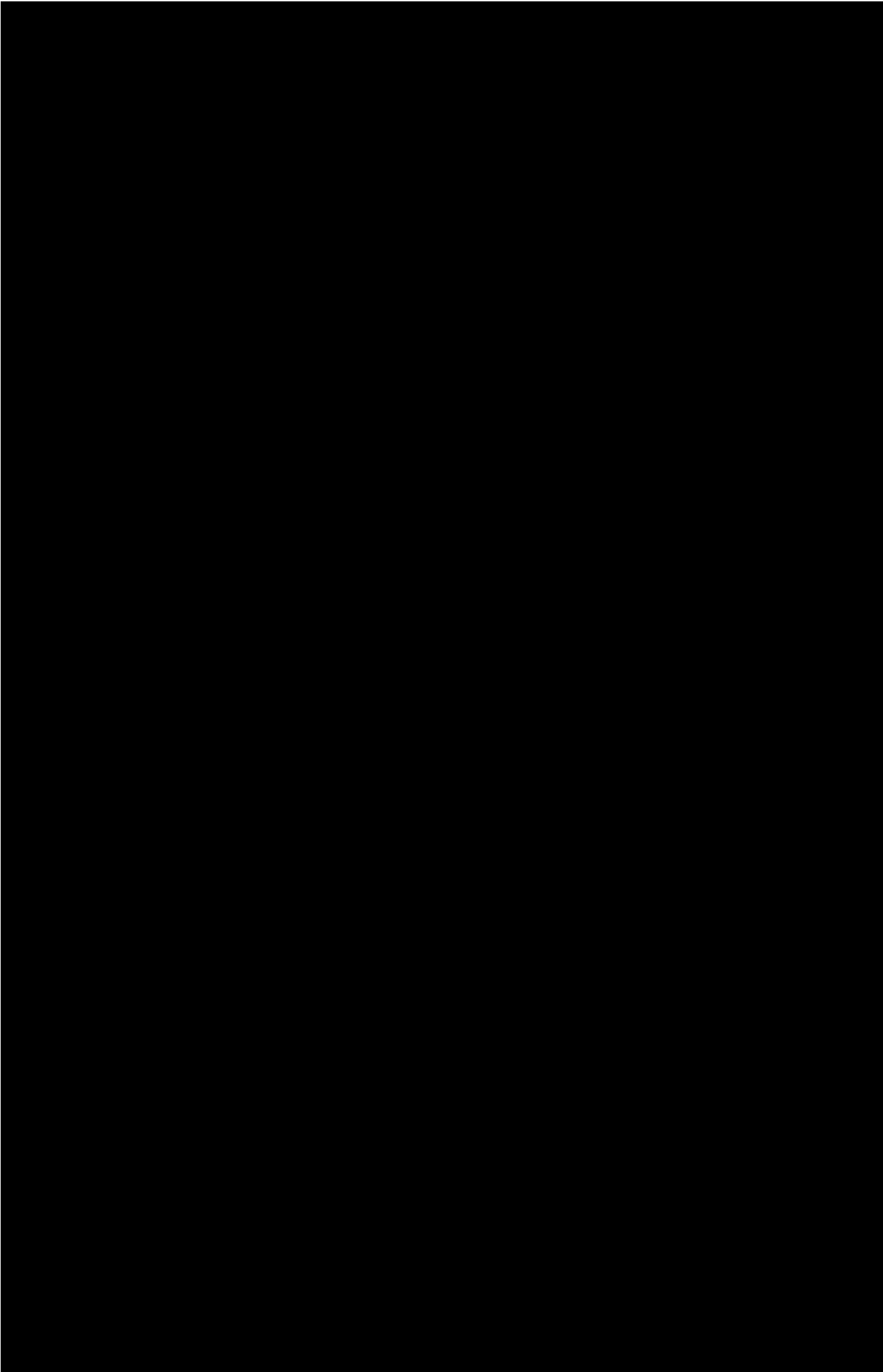












## Schedule 2: Call-Off Contract charges

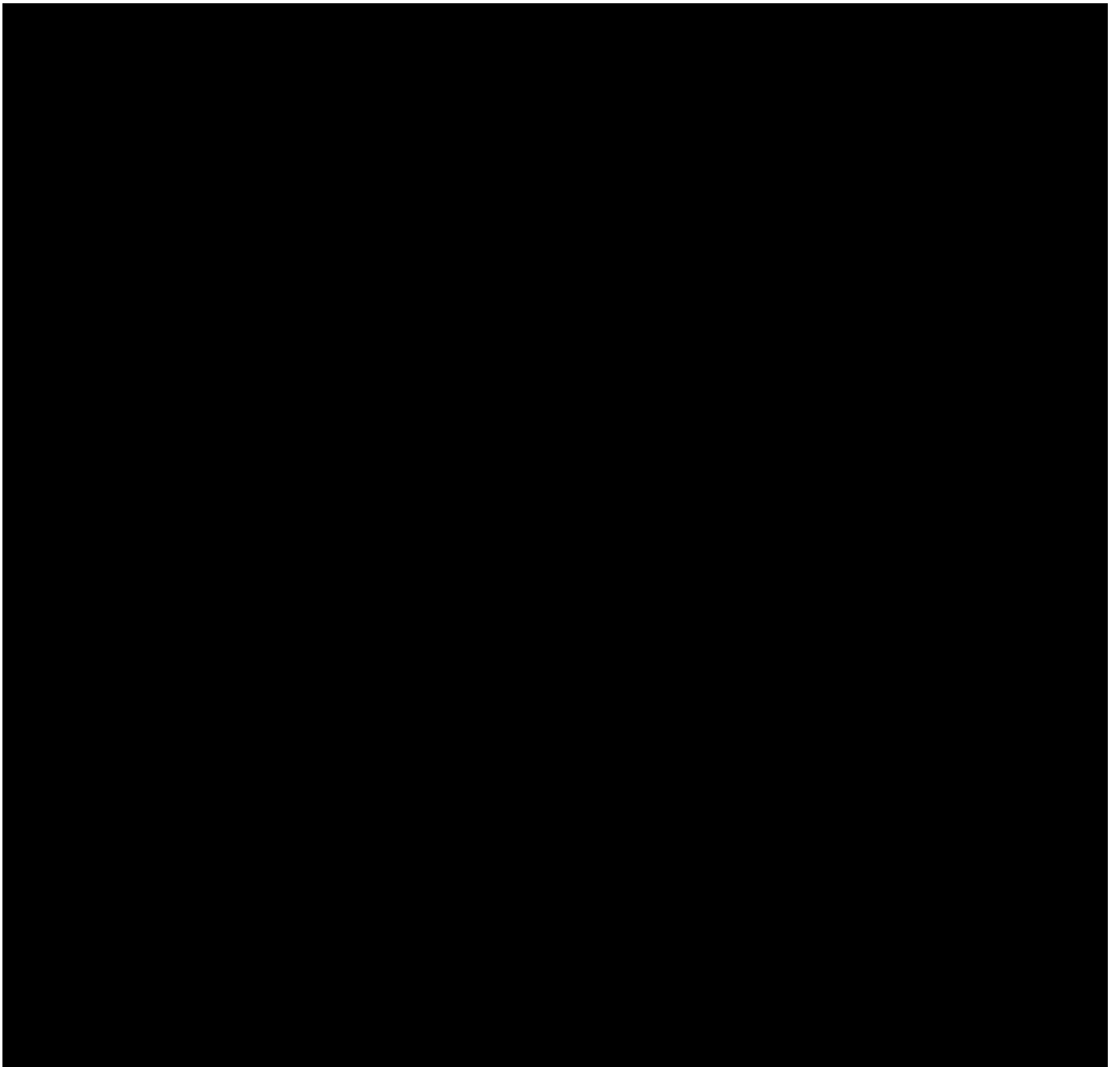
For each individual Service, the applicable Call-Off Contract Charges (in accordance with the Supplier's Platform pricing document) can't be amended during the term of the Call-Off Contract. The detailed Charges breakdown for the provision of Services during the Term will include:

The Authority shall pay a fixed price of [REDACTED] over two years chargeable at quarterly intervals as set out in the 'Pricing Schedule' below.

- [REDACTED] Fixed Cost divided up into even quarterly invoices of [REDACTED].
- Each invoice citing: *'For services including the design, development, implementation of the identity component of the NHS Staff Passport app, including on-going project management, account management support, ad-hoc technical troubleshooting including hot-fixes and product improvements, service desk support for user on-boarding support and 12,500 user identity bundle'. Where more than 40hours of technical time has been invested before go-live of the tech implementation, any significant change request may affect volume of ID verification entitlement"*.

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## Schedule 3: Collaboration agreement (Not Applicable)

This agreement is made

on [enter date] between:

- 1) [Buyer name] of [Buyer address] (the Buyer)
- 2) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 3) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 4) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 5) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 6) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address] together (the Collaboration Suppliers and each of them a Collaboration Supplier).

Whereas the:

- Buyer and the Collaboration Suppliers have entered into the Call-Off Contracts (defined below) for the provision of various IT and telecommunications (ICT) services
- Collaboration Suppliers now wish to provide for the ongoing cooperation of the Collaboration Suppliers in the provision of services under their respective Call-Off Contract to the Buyer

In consideration of the mutual covenants contained in the Call-Off Contracts and this Agreement and intending to be legally bound, the parties agree as follows:

### 1. Definitions and interpretation

- 1.1 As used in this Agreement, the capitalised expressions will have the following meanings unless the context requires otherwise:

1.1.1 "Agreement" means this collaboration agreement, containing the Clauses and Schedules

1.1.2 "Call-Off Contract" means each contract that is let by the Buyer to one of the Collaboration Suppliers

1.1.3 "Contractor's Confidential Information" has the meaning set out in the Call-Off Contracts

1.1.4 "Confidential Information" means the Buyer Confidential Information or any Collaboration Supplier's Confidential Information

1.1.5 "Collaboration Activities" means the activities set out in this Agreement

1.1.6 "Buyer Confidential Information" has the meaning set out in the Call-Off Contract

1.1.7 "Default" means any breach of the obligations of any Collaboration Supplier or any Default, act, omission, negligence or statement of any Collaboration Supplier, its employees, servants, agents or subcontractors in connection with or in relation to the subject matter of this Agreement and in respect of which such Collaboration Supplier is liable (by way of indemnity or otherwise) to the other parties 1.1.8 "Detailed Collaboration Plan" has the meaning given in clause 3.2

1.1.9 "Dispute Resolution Process" means the process described in clause

9

1.1.10 "Effective Date" means [insert date]

1.1.11 "Force Majeure Event" has the meaning given in clause 11.1.1

1.1.12 "Mediator" has the meaning given to it in clause 9.3.1

1.1.13 "Outline Collaboration Plan" has the meaning given to it in clause 3.1

1.1.14 "Term" has the meaning given to it in clause 2.1

1.1.15 "Working Day" means any day other than a Saturday, Sunday or public holiday in England and Wales

## 1.2 General

1.2.1 As used in this Agreement the:

1.2.1.1 masculine includes the feminine and the neuter

1.2.1.2 singular includes the plural and the other way round

1.2.1.3 A reference to any statute, enactment, order, regulation or other similar instrument will be viewed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent reenactment.

1.2.2 Headings are included in this Agreement for ease of reference only and will not affect the interpretation or construction of this Agreement.

1.2.3 References to Clauses and Schedules are, unless otherwise provided, references to clauses of and schedules to this Agreement.

1.2.4 Except as otherwise expressly provided in this Agreement, all remedies available to any party under this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy will not exclude the exercise of any other remedy.

1.2.5 The party receiving the benefit of an indemnity under this Agreement will use its reasonable endeavours to mitigate its loss covered by the indemnity.

## 2. Term of the agreement

2.1 This Agreement will come into force on the Effective Date and, unless earlier terminated in accordance with clause 10, will expire 6 months after the expiry or termination (however arising) of the exit period of the last Call-Off Contract (the "Term").

2.2 A Collaboration Supplier's duty to perform the Collaboration Activities will continue until the end of the exit period of its last relevant Call-Off Contract.

## 3. Provision of the collaboration plan

3.1 The Collaboration Suppliers will, within 2 weeks (or any longer period as notified by the Buyer in writing) of the Effective Date, provide to the Buyer detailed proposals for the

Collaboration Activities they require from each other (the “Outline Collaboration Plan”).

- 3.2 Within 10 Working Days (or any other period as agreed in writing by the Buyer and the Collaboration Suppliers) of [receipt of the proposals] or [the Effective Date], the Buyer will prepare a plan for the Collaboration Activities (the “Detailed Collaboration Plan”). The Detailed Collaboration Plan will include full details of the activities and interfaces that involve all of the Collaboration Suppliers to ensure the receipt of the services under each Collaboration Supplier’s respective [contract] [Call-Off Contract], by the Buyer. The Detailed Collaboration Plan will be based on the Outline Collaboration Plan and will be submitted to the Collaboration Suppliers for approval.
- 3.3 The Collaboration Suppliers will provide the help the Buyer needs to prepare the Detailed Collaboration Plan.
- 3.4 The Collaboration Suppliers will, within 10 Working Days of receipt of the Detailed Collaboration Plan, either:
  - 3.4.1 approve the Detailed Collaboration Plan
  - 3.4.2 reject the Detailed Collaboration Plan, giving reasons for the rejection
- 3.5 The Collaboration Suppliers may reject the Detailed Collaboration Plan under clause 3.4.2 only if it is not consistent with their Outline Collaboration Plan in that it imposes additional, more onerous, obligations on them.
- 3.6 If the parties fail to agree the Detailed Collaboration Plan under clause 3.4, the dispute will be resolved using the Dispute Resolution Process.

#### 4. Collaboration activities

- 4.1 The Collaboration Suppliers will perform the Collaboration Activities and all other obligations of this Agreement in accordance with the Detailed Collaboration Plan.
- 4.2 The Collaboration Suppliers will provide all additional cooperation and assistance as is reasonably required by the Buyer to ensure the continuous delivery of the services under the Call-Off Contract.
- 4.3 The Collaboration Suppliers will ensure that their respective subcontractors provide all cooperation and assistance as set out in the Detailed Collaboration Plan.

## 5. Invoicing

- 5.1 If any sums are due under this Agreement, the Collaboration Supplier responsible for paying the sum will pay within 30 Working Days of receipt of a valid invoice.
- 5.2 Interest will be payable on any late payments under this Agreement under the Late Payment of Commercial Debts (Interest) Act 1998, as amended.

## 6. Confidentiality

- 6.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Collaboration Suppliers acknowledge that any Confidential Information obtained from or relating to the Crown, its servants or agents is the property of the Crown.
- 6.2 Each Collaboration Supplier warrants that:
  - 6.2.1 any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) will only use Confidential Information for the purposes of this Agreement
  - 6.2.2 any person employed or engaged by it (in connection with this Agreement) will not disclose any Confidential Information to any third party without the prior written consent of the other party
  - 6.2.3 it will take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (except as agreed) or used other than for the purposes of this Agreement by its employees, servants, agents or subcontractors
  - 6.2.4 neither it nor any person engaged by it, whether as a servant or a consultant or otherwise, will use the Confidential Information for the solicitation of business from the other or from the other party's servants or consultants or otherwise
- 6.3 The provisions of clauses 6.1 and 6.2 will not apply to any information which is:
  - 6.3.1 or becomes public knowledge other than by breach of this clause 6

## Information

- 6.3.2 in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party
- 6.3.3 received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure
- 6.3.4 independently developed without access to the Confidential Information
- 6.3.5 required to be disclosed by law or by any judicial, arbitral, regulatory or other authority of competent jurisdiction
- 6.4 The Buyer's right, obligations and liabilities in relation to using and disclosing any Collaboration Supplier's Confidential Information provided under this Agreement and the Collaboration Supplier's right, obligations and liabilities in relation to using and disclosing any of the Buyer's Confidential Information provided under this Agreement, will be as set out in the [relevant contract] [Call-Off Contract].

## 7. Warranties

- 7.1 Each Collaboration Supplier warrant and represent that:
  - 7.1.1 it has full capacity and authority and all necessary consents (including but not limited to, if its processes require, the consent of its parent company) to enter into and to perform this Agreement and that this Agreement is executed by an authorised representative of the Collaboration Supplier
  - 7.1.2 its obligations will be performed by appropriately experienced, qualified and trained personnel with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause 7) in accordance with its own established internal processes
- 7.2 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose) are excluded to the extent permitted by law.

## 8. Limitation of liability

- 8.1 None of the parties exclude or limit their liability for death or personal injury resulting from negligence, or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

- 8.2 Nothing in this Agreement will exclude or limit the liability of any party for fraud or fraudulent misrepresentation.
- 8.3 Subject always to clauses 8.1 and 8.2, the liability of the Buyer to any Collaboration Suppliers for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement (excluding Clause 6.4, which will be subject to the limitations of liability set out in the relevant Contract) will be limited to [(£,000)].
- 8.4 Subject always to clauses 8.1 and 8.2, the liability of each Collaboration Supplier for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement will be limited to [Buyer to specify].
- 8.5 Subject always to clauses 8.1, 8.2 and 8.6 and except in respect of liability under clause 6  
(excluding clause 6.4, which will be subject to the limitations of liability set out in the  
[relevant contract] [Call-Off Contract]), in no event will any party be liable to any other for:
- 8.5.1 indirect loss or damage
  - 8.5.2 special loss or damage
  - 8.5.3 consequential loss or damage
  - 8.5.4 loss of profits (whether direct or indirect)
  - 8.5.5 loss of turnover (whether direct or indirect)
  - 8.5.6 loss of business opportunities (whether direct or indirect)
  - 8.5.7 damage to goodwill (whether direct or indirect)
- 8.6 Subject always to clauses 8.1 and 8.2, the provisions of clause 8.5 will not be taken as limiting the right of the Buyer to among other things, recover as a direct loss any:
- 8.6.1 additional operational or administrative costs and expenses arising from a Collaboration Supplier's Default
  - 8.6.2 wasted expenditure or charges rendered unnecessary or incurred by the Buyer arising from a Collaboration Supplier's Default

## 9. Dispute resolution process

- 9.1 All disputes between any of the parties arising out of or relating to this Agreement will be referred, by any party involved in the dispute,



to the representatives of the parties specified in the Detailed Collaboration Plan.

- 9.2 If the dispute cannot be resolved by the parties' representatives nominated under clause 9.1 within a maximum of 5 Working Days (or any other time agreed in writing by the parties) after it has been referred to them under clause 9.1, then except if a party seeks urgent injunctive relief, the parties will refer it to mediation under the process set out in clause 9.3 unless the Buyer considers (acting reasonably and considering any objections to mediation raised by the other parties) that the dispute is not suitable for resolution by mediation.

are: 9.3 The process for mediation and consequential provisions for mediation

9.3.1 a neutral adviser or mediator will be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one party to the other parties to appoint a Mediator or if the Mediator agreed upon is unable or unwilling to act, any party will within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to the parties that he is unable or unwilling to act, apply to the President of the Law Society to appoint a Mediator

9.3.2 the parties will within 10 Working Days of the appointment of the Mediator meet to agree a programme for the exchange of all relevant information and the structure of the negotiations

9.3.3 unless otherwise agreed by the parties in writing, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the parties in any future proceedings

9.3.4 if the parties reach agreement on the resolution of the dispute, the agreement will be put in writing and will be binding on the parties once it is signed by their authorised representatives

9.3.5 failing agreement, any of the parties may invite the Mediator to provide a nonbinding but informative opinion in writing. The opinion will be provided on a without prejudice basis and will not be used in evidence in any proceedings relating to this Agreement without the prior written consent of all the parties

9.3.6 if the parties fail to reach agreement in the structured negotiations within 20 Working Days of the Mediator being appointed, or any longer period the parties agree on, then any

dispute or difference between them may be referred to the courts

- 9.4 The parties must continue to perform their respective obligations under this Agreement and under their respective Contracts pending the resolution of a dispute.

## 10. Termination and consequences of termination

### 10.1 Termination

- 10.1.1 The Buyer has the right to terminate this Agreement at any time by notice in writing to the Collaboration Suppliers whenever the Buyer has the right to terminate a Collaboration Supplier's [respective contract] [Call-Off Contract].
- 10.1.2 Failure by any of the Collaboration Suppliers to comply with their obligations under this Agreement will constitute a Default under their [relevant contract] [Call-Off Contract]. In this case, the Buyer also has the right to terminate by notice in writing the participation of any Collaboration Supplier to this Agreement and sever its name from the list of Collaboration Suppliers, so that this Agreement will continue to operate between the Buyer and the remaining Collaboration Suppliers.

### 10.2 Consequences of termination

- 10.2.1 Subject to any other right or remedy of the parties, the Collaboration Suppliers and the Buyer will continue to comply with their respective obligations under the [contracts] [Call-Off Contracts] following the termination (however arising) of this Agreement.
- 10.2.2 Except as expressly provided in this Agreement, termination of this Agreement will be without prejudice to any accrued rights and obligations under this Agreement.

## 11. General provisions

### 11.1 Force majeure

- 11.1.1 For the purposes of this Agreement, the expression "Force Majeure Event" will mean any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism,

acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to any party, the party's personnel or any other failure of a Subcontractor.

11.1.2 Subject to the remaining provisions of this clause 11.1, any party to this Agreement may claim relief from liability for non-performance of its obligations to the extent this is due to a Force Majeure Event.

11.1.3 A party cannot claim relief if the Force Majeure Event or its level of exposure to the event is attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

11.1.4 The affected party will immediately give the other parties written notice of the Force Majeure Event. The notification will include details of the Force Majeure Event together with evidence of its effect on the obligations of the affected party, and any action the affected party proposes to take to mitigate its effect.

11.1.5 The affected party will notify the other parties in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Agreement. Following the notification, this Agreement will continue to be performed on the terms existing immediately before the Force Majeure Event unless agreed otherwise in writing by the parties.

## 11.2 Assignment and subcontracting

11.2.1 Subject to clause 11.2.2, the Collaboration Suppliers will not assign, transfer, novate, sub-license or declare a trust in respect of its rights under all or a part of this Agreement or the benefit or advantage without the prior written consent of the Buyer.

11.2.2 Any subcontractors identified in the Detailed Collaboration Plan can perform those elements identified in the Detailed Collaboration Plan to be performed by the Subcontractors.

## 11.3 Notices

11.3.1 Any notices given under or in relation to this Agreement will be deemed to have been properly delivered if sent by recorded or registered post or by fax and will be deemed for the purposes of this Agreement to have been given or made at the time the letter would, in the ordinary course of post, be

delivered or at the time shown on the sender's fax transmission report.

11.3.2 For the purposes of clause 11.3.1, the address of each of the parties are those in the Detailed Collaboration Plan.

#### 11.4 Entire agreement

11.4.1 This Agreement, together with the documents and agreements referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes any previous agreement between the Parties about this.

11.4.2 Each of the parties agrees that in entering into this Agreement and the documents and agreements referred to in it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Agreement. The only remedy available to each party in respect of any statements, representation, warranty or understanding will be for breach of contract under the terms of this Agreement.

11.4.3 Nothing in this clause 11.4 will exclude any liability for fraud.

#### 11.5 Rights of third parties

Nothing in this Agreement will grant any right or benefit to any person other than the parties or their respective successors in title or assignees, or entitle a third party to enforce any provision and the parties do not intend that any term of this Agreement should be enforceable by a third party by virtue of the Contracts (Rights of Third Parties) Act 1999.

#### 11.6 Severability

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, that provision will be severed without effect to the remaining provisions. If a provision of this Agreement that is fundamental to the accomplishment of the purpose of this Agreement is held to any extent to be invalid, the parties will immediately commence good faith negotiations to remedy that invalidity.

#### 11.7 Variations

No purported amendment or variation of this Agreement or any provision of this Agreement will be effective unless it is made in writing by the parties.

#### 11.8 No waiver

The failure to exercise, or delay in exercising, a right, power or remedy provided by this Agreement or by law will not constitute a waiver of that right, power or remedy. If a party waives a breach of any provision of this Agreement this will not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.

#### 11.9 Governing law and jurisdiction

This Agreement will be governed by and construed in accordance with English law and without prejudice to the Dispute Resolution Process, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Executed and delivered as an agreement by the parties or their duly authorised attorneys the day and year first above written.

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## Schedule 4: Alternative clauses

### 1. Introduction

1.1 This Schedule specifies the alternative clauses that may be requested in the Order Form and, if requested in the Order Form, will apply to this Call-Off Contract.

### 2. Clauses selected

2.1 The Customer may, in the Order Form, request the following

alternative Clauses: 2.1.1 Scots Law and Jurisdiction

2.1.2 References to England and Wales in incorporated Framework Agreement clause 15.1 (Law and Jurisdiction) of this Call-Off Contract will be replaced with Scotland and the wording of the Framework Agreement and Call-Off Contract will be interpreted as closely as possible to the original English and Welsh Law intention despite Scots Law applying.

2.1.3 Reference to England and Wales in Working Days definition within the Glossary and interpretations section will be replaced with Scotland.

2.1.4 References to the Contracts (Rights of Third Parties) Act 1999 will be removed in clause 27.1. Reference to the Freedom of Information Act 2000 within the defined terms for 'FolA/Freedom of Information Act' to be replaced with Freedom of Information (Scotland) Act 2002.

2.1.5 Reference to the Supply of Goods and Services Act 1982 will be removed in incorporated Framework Agreement clause 4.1.

2.1.6 References to "tort" will be replaced with "delict" throughout

2.2 The Customer may, in the Order Form, request the following Alternative Clauses:

2.2.1 Northern Ireland Law (see paragraph 2.3, 2.4, 2.5, 2.6 and 2.7 of this Schedule)

### 2.3 *Discrimination*

2.3.1 The Supplier will comply with all applicable fair employment, equality of treatment and anti-discrimination legislation, including, in particular the:

- Employment (Northern Ireland) Order 2002
- Fair Employment and Treatment (Northern Ireland) Order 1998
- Sex Discrimination (Northern Ireland) Order 1976 and 1988
- Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
- Equal Pay Act (Northern Ireland) 1970
- Disability Discrimination Act 1995
- Race Relations (Northern Ireland) Order 1997
- Employment Relations (Northern Ireland) Order 1999 and Employment Rights (Northern Ireland) Order 1996
- Employment Equality (Age) Regulations (Northern Ireland) 2006
- Part-time Workers (Prevention of less Favourable Treatment) Regulation 2000
- Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- The Disability Discrimination (Northern Ireland) Order 2006
- The Employment Relations (Northern Ireland) Order 2004
- Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006
- Employment Relations (Northern Ireland) Order 2004 • Work and Families (Northern Ireland) Order 2006

and will use his best endeavours to ensure that in his employment policies and practices and in the delivery of the services required of the Supplier under this Call-Off Contract he promotes equality of treatment and opportunity between:

- persons of different religious beliefs or political opinions
- men and women or married and unmarried persons
- persons with and without dependants (including women who are pregnant or on maternity leave and men on paternity leave)
- persons of different racial groups (within the meaning of the Race Relations (Northern Ireland) Order 1997)
- persons with and without a disability (within the meaning of the Disability Discrimination Act 1995)
- persons of different ages
- persons of differing sexual orientation

2.3.2 The Supplier will take all reasonable steps to secure the observance of clause 2.3.1 of this Schedule by all Supplier Staff.

## 2.4 *Equality policies and practices*

2.4.1 The Supplier will introduce and will procure that any Subcontractor will also introduce and implement an equal opportunities policy in accordance with guidance from and to the satisfaction of the Equality Commission. The Supplier will

review these policies on a regular basis (and will procure that its Subcontractors do likewise) and the Customer will be entitled to receive upon request a copy of the policy.

2.4.2 The Supplier will take all reasonable steps to ensure that all of the Supplier Staff comply with its equal opportunities policies (referred to in clause 2.3 above). These steps will include:

- a. the issue of written instructions to staff and other relevant persons
- b. the appointment or designation of a senior manager with responsibility for equal opportunities
- c. training of all staff and other relevant persons in equal opportunities and harassment matters
- d. the inclusion of the topic of equality as an agenda item at team, management and staff meetings

The Supplier will procure that its Subcontractors do likewise with their equal opportunities policies.

2.4.3 The Supplier will inform the Customer as soon as possible in the event of:

- A. the Equality Commission notifying the Supplier of an alleged breach by it or any Subcontractor (or any of their shareholders or directors) of the Fair Employment and Treatment (Northern Ireland) Order 1998 or
- B. any finding of unlawful discrimination (or any offence under the Legislation mentioned in clause 2.3 above) being made against the Supplier or its Subcontractors during the Call-Off Contract Period by any Industrial or Fair Employment Tribunal or court,

The Supplier will take any necessary steps (including the dismissal or replacement of any relevant staff or Subcontractor(s)) as the Customer directs and will seek the advice of the Equality Commission in order to prevent any offence or repetition of the unlawful discrimination as the case may be.

2.4.4 The Supplier will monitor (in accordance with guidance issued by the Equality Commission) the composition of its workforce and applicants for employment and will provide an annual report on the composition of the workforce and applicants to the Customer. If the monitoring reveals under-representation or lack of fair participation of particular groups, the Supplier will review the operation of its relevant policies and take positive action if appropriate. The Supplier will impose on its Subcontractors obligations similar to those undertaken by it in



this clause 2.4 and will procure that those Subcontractors comply with their obligations.

2.4.5 The Supplier will provide any information the Customer requests (including Information requested to be provided by any Subcontractors) for the purpose of assessing the Supplier's compliance with its obligations under clauses 2.4.1 to 2.4.5 of this Schedule.

## 2.5 *Equality*

2.5.1 The Supplier will, and will procure that each Subcontractor will, in performing its/their obligations under this Call-Off Contract (and other relevant agreements), comply with the provisions of Section 75 of the Northern Ireland Act 1998, as if they were a public authority within the meaning of that section.

2.5.2 The Supplier acknowledges that the Customer must, in carrying out its functions, have due regard to the need to promote equality of opportunity as contemplated by the Northern Ireland Act 1998 and the Supplier will use all reasonable endeavours to assist (and to ensure that relevant Subcontractor helps) the Customer in relation to same.

## 2.6 *Health and safety*

2.6.1 The Supplier will promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Call-Off Contract. The Customer will promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer premises and which may affect the Supplier in the performance of its obligations under the Call-Off Contract.

2.6.2 While on the Customer premises, the Supplier will comply with any health and safety measures implemented by the Customer in respect of Supplier Staff and other persons working there.

2.6.3 The Supplier will notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Call-Off Contract on the Customer premises if that incident causes any personal injury or damage to property which could give rise to personal injury.

2.6.4 The Supplier will comply with the requirements of the Health and Safety at Work (Northern Ireland) Order 1978 and any other acts, orders, regulations and codes of practice relating

to health and safety, which may apply to Supplier Staff and other persons working on the Customer premises in the performance of its obligations under the Call-Off Contract.

2.6.5 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work (Northern Ireland) Order 1978) is made available to the Customer on request.

## 2.7 *Criminal damage*

2.7.1 The Supplier will maintain standards of vigilance and will take all precautions as advised by the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or as may be recommended by the police or the Northern Ireland Office (or, if replaced, their successors) and will compensate the Customer for any loss arising directly from a breach of this obligation (including any diminution of monies received by the Customer under any insurance policy).

2.7.2 If during the Call-Off Contract Period any assets (or any part thereof) is or are damaged or destroyed by any circumstance giving rise to a claim for compensation under the provisions of the Compensation Order the following provisions of this clause 2.7 will apply.

2.7.3 The Supplier will make (or will procure that the appropriate organisation make) all appropriate claims under the Compensation Order as soon as possible after the CDO Event and will pursue any claim diligently and at its cost. If appropriate, the Customer will also make and pursue a claim diligently under the Compensation Order. Any appeal against a refusal to meet any claim or against the amount of the award will be at the Customer's cost and the Supplier will (at no additional cost to the Customer) provide any help the Customer reasonably requires with the appeal.

2.7.4 The Supplier will apply any compensation paid under the Compensation Order in respect of damage to the relevant assets towards the repair, reinstatement or replacement of the assets affected.

## Schedule 5: Guarantee: (Not Applicable)

[A Guarantee should only be requested if the Supplier's financial standing is not enough on its own to guarantee delivery of the Services. This is a draft form of guarantee which can be used to procure a Call Off Guarantee, and so it will need to be amended to reflect the Beneficiary's requirements]

This deed of guarantee is made on **[insert date, month, year]** between:

- ( ) **[Insert the name of the Guarantor]** a company incorporated in England and Wales with number **[insert company number]** whose registered office is at **[insert details of the guarantor's registered office]** [or a company incorporated under the Laws of **[insert country]**, registered in **[insert country]** with number **[insert number]** at **[insert place of registration]**, whose principal office is at **[insert office details]**](**'Guarantor'**); in favour of and
- ( ) The Buyer whose offices are **[insert Buyer's official address]**  
(**'Beneficiary'**) **Whereas:**
  - ( ) The guarantor has agreed, in consideration of the Buyer entering into the Call-Off Contract with the Supplier, to guarantee all of the Supplier's obligations under the Call-Off Contract.
  - ( ) It is the intention of the Parties that this document be executed and take effect as a deed.

[Where a deed of guarantee is required, include the wording below and populate the box below with the guarantor company's details. If a deed of guarantee isn't needed then the section below and other references to the guarantee should be deleted.

Suggested headings are as follows:

- Demands and notices
- Representations and Warranties
- Obligation to enter into a new Contract
- Assignment
- Third Party Rights
- Governing Law
- This Call-Off Contract is conditional upon the provision of a Guarantee to the Buyer from the guarantor in respect of the Supplier.]

Guarantor company	[Enter Company name] 'Guarantor'
Guarantor company address	[Enter Company address]
Account manager	[Enter Account Manager name]
	Address: [Enter Account Manager address]
	Phone: [Enter Account Manager phone number]
	Email: [Enter Account Manager email]
	Fax: [Enter Account Manager fax if applicable]

In consideration of the Buyer entering into the Call-Off Contract, the Guarantor agrees with the Buyer as follows:

## Definitions and interpretation

In this Deed of Guarantee, unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms will have the same meaning as they have for the purposes of the Call-Off Contract.

Term	Meaning
<b>Call-Off Contract</b>	Means [the Guaranteed Agreement] made between the Buyer and the Supplier on [insert date].
<b>Guaranteed Obligations</b>	Means all obligations and liabilities of the Supplier to the Buyer under the Call-Off Contract together with all obligations owed by the Supplier to the Buyer that are supplemental to, incurred under, ancillary to or calculated by reference to the Call-Off Contract.
<b>Guarantee</b>	Means the deed of guarantee described in the Order Form (Parent Company Guarantee).

References to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Call-Off Contract) apply now, and as amended, varied, restated, supplemented, substituted or novated in the future.

Unless the context otherwise requires, words importing the singular are to include the plural and vice versa.

References to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect.

The words 'other' and 'otherwise' are not to be construed as confining the meaning of any following words to the class of thing previously stated if a wider construction is possible.

Unless the context otherwise requires:

- reference to a gender includes the other gender and the neuter
- references to an Act of Parliament, statutory provision or statutory instrument also apply if amended, extended or re-enacted from time to time

- any phrase introduced by the words 'including', 'includes', 'in particular', 'for example' or similar, will be construed as illustrative and without limitation to the generality of the related general words

References to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee.

References to liability are to include any liability whether actual, contingent, present or future.

### Guarantee and indemnity

The Guarantor irrevocably and unconditionally guarantees that the Supplier duly performs all of the guaranteed obligations due by the Supplier to the Buyer.

If at any time the Supplier will fail to perform any of the guaranteed obligations, the Guarantor irrevocably and unconditionally undertakes to the Buyer it will, at the cost of the Guarantor:

- fully perform or buy performance of the guaranteed obligations to the Buyer
- as a separate and independent obligation and liability, compensate and keep the Buyer compensated against all losses and expenses which may result from a failure by the Supplier to perform the guaranteed obligations under the Call-Off Contract

As a separate and independent obligation and liability, the Guarantor irrevocably and unconditionally undertakes to compensate and keep the Buyer compensated on demand against all losses and expenses of whatever nature, whether arising under statute, contract or at common Law, if any obligation guaranteed by the guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the guarantor's liability will be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

### Obligation to enter into a new contract

If the Call-Off Contract is terminated or if it is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable, the Guarantor will, at the request of the Buyer, enter into a Contract with the Buyer in the same terms as the Call-Off Contract and the obligations of the Guarantor under such substitute agreement will be the same as if the Guarantor had been original obligor under the Call-Off Contract or under an agreement entered into on the same terms and at the same time as the Call-Off Contract with the Buyer.

### **Demands and notices**

Any demand or notice served by the Buyer on the Guarantor under this Deed of Guarantee will be in writing, addressed to:

**[Enter Address of the Guarantor in England and Wales]**

*[Enter Email address of the Guarantor*

*representative] For the Attention of*

*[insert details]*

or such other address in England and Wales as the Guarantor has notified the Buyer in writing as being an address for the receipt of such demands or notices.

Any notice or demand served on the Guarantor or the Buyer under this Deed of Guarantee will be deemed to have been served if:

- delivered by hand, at the time of delivery
- posted, at 10am on the second Working Day after it was put into the post
- sent by email, at the time of despatch, if despatched before 5pm on any Working Day, and in any other case at 10am on the next Working Day

In proving Service of a notice or demand on the Guarantor or the Buyer, it will be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the fax message was properly addressed and despatched.

Any notice purported to be served on the Buyer under this Deed of Guarantee will only be valid when received in writing by the Buyer.

### **Beneficiary's protections**

The Guarantor will not be discharged or released from this Deed of Guarantee by:

- any arrangement made between the Supplier and the Buyer (whether or not such arrangement is made with the assent of the Guarantor)
- any amendment to or termination of the Call-Off Contract
- any forbearance or indulgence as to payment, time, performance or otherwise granted by the Buyer (whether or not such amendment,

termination, forbearance or indulgence is made with the assent of the Guarantor)

- the Buyer doing (or omitting to do) anything which, but for this provision, might exonerate the Guarantor

This Deed of Guarantee will be a continuing security for the Guaranteed Obligations and accordingly:

- it will not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Buyer in exercising its rights under this Deed of Guarantee
- it will not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Buyer, the Guarantor or any other person
- if, for any reason, any of the Guaranteed Obligations is void or unenforceable against the Supplier, the Guarantor will be liable for that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor
- the rights of the Buyer against the Guarantor under this Deed of Guarantee are in addition to, will not be affected by and will not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Buyer

The Buyer will be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes. The making of a demand (whether effective, partial or defective) relating to the breach or non-performance by the Supplier of any Guaranteed Obligation will not preclude the Buyer from making a further demand relating to the same or some other Default regarding the same Guaranteed Obligation.

The Buyer will not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to:

- obtain judgment against the Supplier or the Guarantor or any third party in any court
- make or file any claim in a bankruptcy or liquidation of the Supplier or any third party
- take any action against the Supplier or the Guarantor or any third party
- resort to any other security or guarantee or other means of payment

No action (or inaction) by the Buyer relating to any such security, guarantee or other means of payment will prejudice or affect the liability of the Guarantor.



The Buyer's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by Law. The Buyer's rights may be exercised as often as the Buyer deems expedient. Any waiver by the Buyer of any terms of this Deed of Guarantee, or of any Guaranteed Obligations, will only be effective if given in writing and then only for the purpose and upon the terms and conditions on which it is given.

Any release, discharge or settlement between the Guarantor and the Buyer will be conditional upon no security, disposition or payment to the Buyer by the Guarantor or any other person being void, set aside or ordered to be refunded following any enactment or Law relating to liquidation, administration or insolvency or for any other reason. If such condition will not be fulfilled, the Buyer will be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Buyer will be entitled to retain this security before and after the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Buyer from the Guarantor for such period as the Buyer may determine.

### Representations and warranties

The Guarantor hereby represents and warrants to the Buyer that:

- the Guarantor is duly incorporated and is a validly existing company under the Laws of its place of incorporation
- has the capacity to sue or be sued in its own name
- the Guarantor has power to carry on its business as now being conducted and to own its Property and other assets
- the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee
- the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including entry into and performance of a Call-Off Contract following Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:
  - the Guarantor's memorandum and articles of association or other equivalent constitutional documents, any existing Law, statute, rule or Regulation or any judgment, decree or permit to which the Guarantor is subject
  - the terms of any agreement or other document to which the Guarantor is a party or which is binding upon it or any of its assets
  - all governmental and other authorisations, approvals, licences and consents, required or desirable

This Deed of Guarantee is the legal valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

### Payments and set-off

All sums payable by the Guarantor under this Deed of Guarantee will be paid without any set-off, lien or counterclaim, deduction or withholding, except for those required by Law. If any deduction or withholding must be made by Law, the Guarantor will pay that additional amount to ensure that the Buyer receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.

The Guarantor will pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

The Guarantor will reimburse the Buyer for all legal and other costs (including VAT) incurred by the Buyer in connection with the enforcement of this Deed of Guarantee.

### Guarantor's acknowledgement

The Guarantor warrants, acknowledges and confirms to the Buyer that it has not entered into this Deed of Guarantee in reliance upon the Buyer nor been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by, or on behalf of the Buyer, (whether express or implied and whether following statute or otherwise) which is not in this Deed of Guarantee.

### Assignment

The Buyer will be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer will not release the Guarantor from its liability under this Guarantee.

The Guarantor may not assign or transfer any of its rights or obligations under this Deed of Guarantee.

### Severance

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision will be severed and the remainder of the provisions will continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

### Third-party rights

A person who is not a Party to this Deed of Guarantee will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than following that Act.

### Governing law

This Deed of Guarantee, and any non-Contractual obligations arising out of or in connection with it, will be governed by and construed in accordance with English Law.

The Guarantor irrevocably agrees for the benefit of the Buyer that the courts of England will have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

Nothing contained in this Clause will limit the rights of the Buyer to take proceedings against the Guarantor in any other court of competent jurisdiction, nor will the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable Law).

The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

[The Guarantor hereby irrevocably designates, appoints and empowers **[enter the Supplier name]** [or a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on fax number **[insert fax number]** from time to time to act as its authorised agent to receive notices, demands, Service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Buyer in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the Service of notices and demands, Service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

*[Insert name of the Guarantor] acting by  
[Insert names]*

Director

Director/Secretary

CONFIDENTIAL

## Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
<b>Additional Services</b>	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Clause 2 (Services) which a Buyer may request.
<b>Admission Agreement</b>	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
<b>Application</b>	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Platform).
<b>Audit</b>	An audit carried out under the incorporated Framework Agreement clauses.
<b>Background IPRs</b>	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"><li>owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes</li><li>created by the Party independently of this Call-Off Contract, or</li></ul> <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>

<b>Buyer</b>	The contracting authority ordering services as set out in the Order Form.
<b>Buyer Data</b>	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
<b>Buyer Personal Data</b>	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
<b>Buyer Representative</b>	The representative appointed by the Buyer under this Call-Off Contract.

<b>Buyer Software</b>	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
<b>Call-Off Contract</b>	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.

<b>Charges</b>	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
<b>Collaboration Agreement</b>	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
<b>Commercially Sensitive Information</b>	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
<b>Confidential Information</b>	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"><li>• information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li><li>• other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').</li></ul>
<b>Control</b>	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.

<b>Controller</b>	Takes the meaning given in the UK GDPR.
<b>Crown</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
<b>Data Loss Event</b>	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Call-Off Contract and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>Data Protection Impact Assessment (DPIA)</b>	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
<b>Data Protection Legislation (DPL)</b>	(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.
<b>Data Subject</b>	Takes the meaning given in the UK GDPR



<b>Default</b>	<p>Default is any:</p> <ul style="list-style-type: none"><li>• breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li><li>• other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract</li></ul> <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
<b>DPA 2018</b>	Data Protection Act 2018.
<b>Employment Regulations</b>	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') .
<b>End</b>	Means to terminate; and Ended and Ending are construed accordingly.
<b>Environmental Information Regulations or EIR</b>	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
<b>Equipment</b>	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.

<b>ESI Reference Number</b>	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
<b>Employment Status Indicator test tool or ESI tool</b>	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: <a href="https://www.gov.uk/guidance/check-employment-status-fortax">https://www.gov.uk/guidance/check-employment-status-fortax</a>
<b>Expiry Date</b>	The expiry date of this Call-Off Contract in the Order Form.
<b>Force Majeure</b>	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"><li>• acts, events or omissions beyond the reasonable control of the affected Party</li><li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li><li>• acts of government, local government or Regulatory Bodies</li><li>• fire, flood or disaster and any failure or shortage of power or fuel</li><li>• industrial dispute affecting a third party for which a substitute third party isn't reasonably available</li></ul> <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"><li>• any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain</li><li>• any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure</li><li>• the event was foreseeable by the Party seeking to rely on Force</li></ul> <p>Majeure at the time this Call-Off Contract was entered into</p> <ul style="list-style-type: none"><li>• any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans</li></ul>

<b>Former Supplier</b>	A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).
<b>Framework Agreement</b>	The clauses of framework agreement RM1557.13 together with the Framework Schedules.
<b>Fraud</b>	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or
	defrauding or attempting to defraud or conspiring to defraud the Crown.
<b>Freedom of Information Act or FoIA</b>	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.
<b>G-Cloud Services</b>	The cloud services described in Framework Agreement Clause 2 (Services) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.

<b>UK GDPR</b>	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).
<b>Good Industry Practice</b>	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
<b>Government Procurement Card</b>	The government's preferred method of purchasing and payment for low value goods or services.
<b>Guarantee</b>	The guarantee described in Schedule 5.
<b>Guidance</b>	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
<b>Implementation Plan</b>	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
<b>Indicative test</b>	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.

<b>Information</b>	Has the meaning given under section 84 of the Freedom of Information Act 2000.
<b>Information security management system</b>	The information security management system and process developed by the Supplier in accordance with clause 16.1.
<b>Inside IR35</b>	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
<b>Insolvency event</b>	Can be: <ul style="list-style-type: none"><li>• a voluntary arrangement</li><li>• a winding-up petition</li><li>• the appointment of a receiver or administrator</li><li>• an unresolved statutory demand</li><li>• a Schedule A1 moratorium</li><li>• a Dun &amp; Bradstreet rating of 10 or less</li></ul>
<b>Intellectual Property Rights or IPR</b>	Intellectual Property Rights are: <ul style="list-style-type: none"><li>• 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 names, designs, Know-How, trade secrets and other rights in Confidential Information</li><li>• 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</li><li>• all other rights having equivalent or similar effect in any country or jurisdiction</li></ul>

<b>Intermediary</b>	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none"><li>• the supplier's own limited company</li><li>• a service or a personal service company</li><li>• a partnership</li></ul> <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>
<b>IPR claim</b>	As set out in clause 11.5.
<b>IR35</b>	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
<b>IR35 assessment</b>	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
<b>Know-How</b>	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or Buyer's possession before the Start date.
<b>Law</b>	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, 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.

<b>Loss</b>	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 ' <b>Losses</b> ' will be interpreted accordingly.
<b>Lot</b>	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
<b>Malicious Software</b>	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
<b>Management Charge</b>	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
<b>Management Information</b>	The management information specified in Framework Agreement Schedule 6.
<b>Material Breach</b>	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.

<b>Ministry of Justice Code</b>	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
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<b>New Fair Deal</b>	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.
<b>Order</b>	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
<b>Order Form</b>	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
<b>Ordered G-Cloud Services</b>	G-Cloud Services which are the subject of an order by the Buyer.
<b>Outside IR35</b>	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.



<b>Party</b>	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
<b>Personal Data</b>	Takes the meaning given in the UK GDPR.
<b>Personal Data Breach</b>	Takes the meaning given in the UK GDPR.
<b>Platform</b>	The government marketplace where Services are available for Buyers to buy.
<b>Processing</b>	Takes the meaning given in the UK GDPR.
<b>Processor</b>	Takes the meaning given in the UK GDPR.

<b>Prohibited act</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"><li>• induce that person to perform improperly a relevant function or activity</li><li>• reward that person for improper performance of a relevant function or activity</li><li>• commit any offence:<ul style="list-style-type: none"><li>○ under the Bribery Act 2010</li><li>○ under legislation creating offences concerning Fraud</li><li>○ at common Law concerning Fraud</li><li>○ committing or attempting or conspiring to commit Fraud</li></ul></li></ul>
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<b>Project Specific IPRs</b>	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
<b>Property</b>	Assets and property including technical infrastructure, IPRs and equipment.
<b>Protective Measures</b>	Appropriate technical and organisational measures which may include: pseudonymisation 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 such measures adopted by it.

<b>PSN or Public Services Network</b>	The Public Services Network (PSN) is the government's high performance network which helps public sector organisations work together, reduce duplication and share resources.
<b>Regulatory body or bodies</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
<b>Relevant person</b>	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
<b>Relevant Transfer</b>	A transfer of employment to which the employment regulations applies.
<b>Replacement Services</b>	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.

<b>Replacement supplier</b>	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
<b>Security management plan</b>	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.

<b>Services</b>	The services ordered by the Buyer as set out in the Order Form.
<b>Service data</b>	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
<b>Service definition(s)</b>	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Clause 2 (Services) of the Framework Agreement.
<b>Service description</b>	The description of the Supplier service offering as published on the Platform.

<b>Service Personal Data</b>	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
<b>Spend controls</b>	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see <a href="https://www.gov.uk/service-manual/agile-delivery/spend-controlscheck-if-you-need-approval-to-spend-money-on-a-service">https://www.gov.uk/service-manual/agile-delivery/spend-controlscheck-if-you-need-approval-to-spend-money-on-a-service</a>
<b>Start date</b>	The Start date of this Call-Off Contract as set out in the Order Form.
<b>Subcontract</b>	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
<b>Subcontractor</b>	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.

<b>processor</b>	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
<b>Supplier</b>	The person, firm or company identified in the Order Form.
<b>Supplier Representative</b>	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
<b>Supplier staff</b>	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
<b>Supplier Terms</b>	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
<b>Term</b>	The term of this Call-Off Contract as set out in the Order Form.

<b>Variation</b>	This has the meaning given to it in clause 32 (Variation process).
<b>Working Days</b>	Any day other than a Saturday, Sunday or public holiday in England and Wales.
<b>Work package</b>	Any segment of work that forms part of, or contributes to successful delivery of the <u>Services under Schedule 1</u> , as agreed between the parties.
<b>Year</b>	A contract year.

## Schedule 7: UK GDPR Information

This schedule partially reproduces the annexes to the UK GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract and clause and schedule references are to those in the Framework Agreement but references to CCS have been amended, and adds bespoke terms relating to the data processing arrangements pursuant to this Call-Off Contract.

### 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 Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are: [REDACTED]  
[REDACTED]: [england.dpo@nhs.net](mailto:england.dpo@nhs.net).
- 1.2 The contact details of the Supplier's Data Protection Officer are:  
[REDACTED]: [REDACTED]
- 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	<p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> <li>• <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i></li> <li>• <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of the Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under this Call-Off Contract) for which the Buyer is the Controller,</i></li> <li>• <i>any such business contact details which are shared with the other party for the purpose of performance of this Call-Off Contract.</i></li> </ul> <p>The Supplier is the Controller of Personal Data it Processes in respect of Data Subjects undergoing identity verification and other Processing pursuant to delivery of the Services ("<b>Service Personal Data</b>")</p> <p>Annex 2 sets out additional terms applicable to the Supplier's Processing of such Service Personal Data.</p>
Duration of the Processing	Business contact details and Service Personal Data will be processed for the duration of this Call-Off Contract as detailed in the Call-Off Contract term of Part A order form of this contract document.
Nature and purposes of the Processing	<p>Business contact details are Processed to facilitate the fulfilment of the Supplier's obligations arising under this Call-Off Contract including</p> <ol style="list-style-type: none"> <li>Ensuring effective communication between the Supplier and Buyer</li> <li>Maintaining accurate records in relation to this Call-Off Contract.</li> </ol> <p>Digidentity processes all personal data in the European Economic Area (EEA) and the United Kingdom (UK).</p> <p>We require all sub-processors (suppliers) to process personal data in the EEA and UK.</p>



	<p>All locations for processing personal data are described in the public Privacy Statement available on our corporate website (<a href="https://www.digidentity.eu/documentation">https://www.digidentity.eu/documentation</a>).</p> <p>Service Personal Data is Processed by the supplier to verify staff identity, right to work and DBS check eligibility where staff has consented to this approach. This is in accordance with UK Digital Identity and trust framework (UKDIATF) and it enables an individual to obtain the outcome of these verifications and assert these with their prospective employer.</p> <p>Service Personal Data is Processed in the European Economic Area (EEA) and the United Kingdom (UK).</p> <p>The legal basis for this Processing is:</p> <p>(b) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering a contract. (Art. 6 (1) GDPR.</p> <p>(b) Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law. (Art. 9 GDPR)</p> <table><tr><th>Specified Purpose</th><th>Data points required</th><th>How data will be used</th></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table> <p>The Personal Data shall not be used for direct marketing.</p>	Specified Purpose	Data points required	How data will be used						
Specified Purpose	Data points required	How data will be used								
Type of Personal Data	<p>Business contact details includes:</p> <p>i. Contact details of, and communications with Buyer staff concerned with management of this Call-Off Contract</p> <p>ii. Contact details, and communications with, Sub-contractor staff concerned with fulfilment of the Supplier's obligations arising from this Call-Off Contract</p> <p>iii) Contact details, and communications with Supplier staff concerned with management of this Call-Off Contract</p> <p>Service Personal Data includes:</p> <p>Full Name of Applicant (Given Name and Surname)</p> <p>Date of Birth</p> <p>Address</p> <p>Gender</p> <p>Email address</p> <p>Proof of identity (e.g. passport, driving licence)</p>									

	<p>Identity Document number</p> <p>Personal Identification Number</p> <p>Date of issuance</p> <p>Date of expiry</p> <p>Issuing country</p> <p>Photo from chip</p> <p>Of which the following is Special Category Data: Biometric Data (Image and likeness including as captured in photographs taken),</p>
<p>Categories of Data Subject</p> <p>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</p>	<p>In respect of business contact details this includes:</p> <ul style="list-style-type: none"><li>i. Buyer staff concerned with management of this Call-Off Contract</li><li>iii. Sub-contractor staff concerned with fulfilment of the Supplier's obligations arising from this Call-Off Contract</li><li>iv. Supplier staff concerned with fulfilment of the Supplier's obligations arising under this Call-Off Contract</li></ul> <p>All relevant data to be deleted 7 years after the expiry or termination of the Framework Contract unless longer retention is required by Law or the terms of any Call-Off Contract arising hereunder.</p> <p>In respect of Service Personal Data this includes:</p> <p>NHS Staff</p> <p>The Supplier manages the disposal of Personal Data by adhering to data minimization and retention policies. Personal Data is only retained as long as necessary for the purposes for which it was collected. Once processing is no longer required, Personal Data is securely deleted or destroyed. This involves methods such as data anonymization, where the data is altered so it cannot be linked back to an individual, or using secure deletion protocols that ensure data cannot be recovered</p>

Third Party Processors to be used by the Service Provider	Third Party	Purpose
	[REDACTED]	Document Validation Interpol lost & stolen Document Check
		Document Validation
		Document Validation
		Address, PEPs and Sanctions
		Identity Fraud
		PEPs and Sanctions
		Address
		Liveness & Face Comparison

**Annex 2: Data Schedule – applicable in respect of the Buyer as the commissioner and the Supplier as Controller**

**1. BACKGROUND**

- 1.1. The Supplier is an independent Controller of the Service Personal Data (meaning Personal Data relating to the Services and/or Data Subjects for which the Service Provider is the Data Controller, which may include any Personal Data that the Service Provider collects directly from Data Subjects).
- 1.2. The Buyer has commissioned the delivery of the Services, but shall not be a Controller nor Processor in respect of Service Personal Data.
- 1.3. The Supplier agrees to use the Service Personal Data on the terms set out in Schedule 7 of the Framework Agreement (where applicable) and this Annex, with this Annex taking precedence in the event of any conflict.
- 1.4. Further information regarding this activity is detailed in the DPIA held by the Supplier reference *(unshared but assured Buyer that this is in place)* and the DPIA held by the Buyer reference [REDACTED]
- 1.5. This Schedule sets out the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.

**2. PURPOSES**

- 2.1. The parties consider that the Processing as set out in **ANNEX 3** will serve to benefit individuals and/or society as set out in **ANNEX 3**.

- 2.2. The Supplier agrees to only process the Service Personal Data as further described in Annexes 1 and 3 ("**Stated Purposes**").
- 2.3. The Supplier shall not retain or process the Service Personal Data for longer than is necessary to carry out the Stated Purposes.
- 2.4. Notwithstanding paragraph The Supplier shall not retain or process the Service Personal Data for longer than is necessary to carry out the Stated Purposes., the Supplier may continue to retain the Service Personal Data in accordance with any statutory retention periods applicable.

### **3. COMPLIANCE WITH DATA PROTECTION LEGISLATION**

- 3.1. The Supplier shall comply with the Data Protection Legislation and any associated regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply.

### **4. DATA PROTECTION IMPACT ASSESSMENT**

- 4.1. Each party shall, at the other's request, provide the party with reasonable information and assistance in relation to the production of a Data Protection Impact Assessment relating to the Services, which may include:
  - 4.1.1. a systematic description of the envisaged processing operations and the purpose of the processing;
  - 4.1.2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 4.1.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 4.1.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 4.2. Each party shall provide all reasonable assistance to the other if the outcome of the Data Protection Impact Assessment leads a party to consult the Information Commissioner's Office.

### **5. LAWFUL FAIR AND TRANSPARENT PROCESSING**

- 5.1. The Supplier shall ensure that it processes the Personal Data relating to the Services it holds fairly and lawfully.
- 5.2. The Supplier shall ensure that it has legitimate grounds under the Data Protection Legislation and to meet the common law duty of confidentiality for the processing of the Service Personal Data and ensure this is recorded in Annex 1 and, where the legitimate ground relied on is consent, auditable records are kept of the Data Subject's consent.
- 5.3. The Supplier undertakes to inform the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes, and such other information as is required by Article 14 of the UK GDPR including:
  - 5.3.1. if their Personal Data will be transferred to a third party, that fact and

sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and

- 5.3.2. if their Personal Data will be transferred outside the UK pursuant to paragraph 6 of this Schedule 7, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the Controller to enable the Data Subject to understand the purpose and risks of such transfer.

## 6. TRANSFERS

- 6.1. For the purposes of this paragraph 6, transfers of Service Personal Data shall mean any sharing of Service Personal Data by the Supplier with a third party, and shall include, but is not limited to, the following:
- 6.1.1. subcontracting the processing of the Service Personal Data;
  - 6.1.2. granting a third party controller access to the Service Personal Data.
- 6.2. If the Supplier appoints a Third Party Processor to process the Service Personal Data it shall:
- 6.2.1. comply with Article 28 and Article 30 of the UK GDPR;
  - 6.2.2. notify the Buyer in writing of the intended Third Party Processor and processing;
  - 6.2.3. provide the Buyer with such information regarding the Third Party Processor as the Buyer may reasonably require; and shall
  - 6.2.4. remain liable to the Buyer and the Data Subjects for the acts and/or omissions of the Processor.
- 6.3. If the Supplier grants access to a third party controller to the Service Personal Data it shall ensure it complies with the Data Protection Legislation and the common law duty of confidentiality.
- 6.4. The Supplier may: i) Process; or ii) transfer the Service Provider Personal Data to a third party located; outside the UK (Ireland, Germany and Netherlands) provided it;
- 6.4.1. complies with the provisions of Article 28 of the UK GDPR (in the event the third party is a Processor);
  - 6.4.2. complies with the provisions of Article 26 of the UK GDPR (in the event the third party is a joint controller);
  - 6.4.3. ensures that: (i) the transfer is to a Safe Country, pursuant to Article 45 of the UK GDPR; (ii) where the transfer is not to a Safe Country, there are appropriate safeguards (including but not limited to an International Data Transfer Agreement or International Data Transfer Addendum to the Standard Contractual Clauses) in place, pursuant to Article 46 of the UK GDPR; or (iii) one of the derogations for specific situations in Article 49 of the UK GDPR applies to the transfer; and
  - 6.4.4. maintains and provides evidence of renewal for the period of any such Processing outside the UK of: i) participation in the HITRUST Alliance CSF programme, including certification by a third-party; and ii) any other

certification detailed in the Conformance Documentation (including HIPAA, ISO 27799-2008, ISO/IEC 27002:2013, NIST Cybersecurity Framework, NIST SP 800-53).

## **7. PERSONAL DATA BREACHES, DATA SUBJECT REQUESTS AND REPORTING PROCEDURES**

- 7.1. The parties shall each comply with their obligation to report a Data Loss Event to the appropriate Supervisory Authority and, where applicable, Data Subjects under Article 33 of the UK GDPR.
- 7.2. Subject to paragraph Each party's obligation to notify under paragraph Subject to paragraph Each party's obligation to notify under paragraph 7.2 shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other party if it: shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other party if it:
  - 7.2.1. receives any request, complaint or communication relating to either Party's obligations under the Data Protection Legislation in connection with Personal Data processed under this Call-Off Contract;
  - 7.2.2. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Call-Off Contract; or
  - 7.2.3. becomes aware of a Data Loss Event.
- 7.3. Each party's obligation to notify under paragraph Subject to paragraph Each party's obligation to notify under paragraph Subject to paragraph Each party's obligation to notify under paragraph 7.2 shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other party if it: shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other party if it: shall include the provision of further information to the other party in phases, as details become available.
- 7.4. Taking into account the nature of the processing, each party shall provide the other party with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph Subject to paragraph Each party's obligation to notify under paragraph Subject to paragraph Each party's obligation to notify under paragraph 7.2 shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other party if it: shall include the provision of further information to the other party in phases, as details become available., each party shall promptly notify the other

party if it: (and insofar as possible within the timescales reasonably required by a party) including by promptly providing:

- 7.4.1. full details and copies of the complaint, communication or request;
  - 7.4.2. such assistance as is reasonably requested to enable a party to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 7.4.3. any Personal Data it holds in relation to a Data Subject;
  - 7.4.4. assistance as reasonably requested following any Data Loss Event;
  - 7.4.5. assistance as reasonably requested with respect to any request from the Information Commissioner's Office, or any consultation with the Information Commissioner's Office.
- 7.5. In the event of a dispute, claim or request brought by a Data Subject or the Supervisory Authority concerning the processing of the Personal Data against either or both parties, the parties may, where relevant, inform each other's DPOs about any such disputes, claims or requests, as listed in **ANNEX 3**.

## **8. NOT FOR DIRECT MARKETING**

- 8.1. The Service Provider shall not use Service Personal Data for the purposes of direct marketing.

## **9. CHANGE IN LAW**

- 9.1. If during the Term the Data Protection Legislation change in a way that this Schedule 7 is no longer adequate for the purpose of governing lawful data processing exercises, the parties agree to negotiate in good faith to review this Schedule 7 in the light of the new legislation.

## ANNEX 3

## INDEPENDENT CONTROLLER - ROLES IN RESPECT OF SERVICE PERSONAL DATA

<b>Responsibility</b>	<b>NHS England</b>	<b>Digidentity</b>
Purpose and Benefits of the processing:	As set in the Schedule 2-2 (Service Specification)	As set in the Schedule 2-2 (Service Specification)
<b>Responsibility</b>	<b>NHS England</b>	<b>[Name]</b>
Determine the means of processing	No	Yes
Determine the purpose of processing	No	Yes
Responsible for reporting a Personal Data Breach to the appropriate Supervisory Authority and, where applicable, Data Subjects under Article 33 of the UK GDPR.	No	Yes
Response to the Data Subject in exercising their rights under UK GDPR, acting as a single point of contact for Data Subjects	No	Yes
Providing information to the Data Subject: Articles 13 and 14 UK GDPR	No	Yes
Publishing the Controller's responsibilities to ensure transparency	No	Yes
Risk assessment of processing and implementing and maintaining appropriate technical and organisational measures to ensure a level of security appropriate to that risk	No	Yes



## ANNEX 4

### DATA SECURITY – PART A Technical and Organisation Measures

The Supplier is an independent Controller, and recognises that it is responsible for ensuring its Processing – including any Processing carried out by a Processor on its behalf – complies with the UK GDPR. The Supplier is responsible for taking appropriate technical and organisation measures to manage the data.

The Supplier is responsible for the following:

- **Compliance with the data protection principles:** it must comply with the data protection principles listed in Article 5 of the UK GDPR.
- **Individuals' rights:** it must ensure that individuals can exercise their rights regarding their Personal Data, including the rights of access, rectification, erasure, restriction, data portability, objection and those related to automated decision-making.
- **Security:** it must implement appropriate technical and organisational security measures to ensure the security of Personal Data.
- **Choosing an appropriate Processor:** it can only use a Processor that provides sufficient guarantees that it will implement appropriate technical and organisational measures to ensure their processing meets UK GDPR requirements. This means the Supplier is responsible for assessing that its Processor is competent to process the Personal Data in line with the UK GDPR's requirements taking into account the nature of the processing and the risks to the Data Subjects.
- **Processor contracts:** it must enter into a binding contract or other legal act with its Processors, which must contain a number of compulsory provisions as specified in Article 28(3).
- **Notification of Personal Data Breaches:** the Supplier is responsible for notifying Personal Data Breaches to the ICO and, where necessary, other supervisory authorities in the European Union, unless the breach is unlikely to result in a risk to the rights and freedoms of individuals. It is also responsible for notifying affected individuals (if the breach is likely to result in a high risk to their rights and freedoms).
- **Accountability obligations:** it must comply with the UK GDPR accountability obligations, such as maintaining records, carrying out data protection impact assessments and appointing a Data

Protection Officer. For more information please read our guidance on accountability and governance.

- **International transfers:** the Supplier must comply with the UK GDPR’s restrictions on transfers of Personal Data outside the European Union (in addition to the provisions of this Call-Off Contract).
- **Appointing a representative within the European Union:** If the Supplier is based outside the European Union but offer services to or monitor individuals inside the European Union, it may need to appoint a representative in the European Union.
- **Co-operation with supervisory authorities:** it must cooperate with supervisory authorities (such as the ICO) and help them perform their duties.
- **Data protection fee:** it must pay the ICO a data protection fee unless it is exempt.

Without limitation, the Supplier shall comply with UK GDPR, see Chapters 1 to 5 in particular Articles 4(7), 5(2), 13-14, 24-28, 30-37, 44, 46-49 and 82 and Recitals 58-61, 73-74, 78-79, 80-89, 97, 101, 108-110 and 146.

**Specific Technical and Organisational Measures to be taken by the Supplier**

<ul style="list-style-type: none"><li>• The Supplier has contracted suppliers to perform specific processes. The Supplier has Data Processor Agreements (DPA) with all suppliers that process personal data on our behalf. Those DPAs contractually hold our suppliers to account and ensure our ongoing compliance with UK GDPR.</li></ul>

C. Legal Basis

NB: participants will be fully informed by Digidentity of the purpose of the data

1	Art. 6 (1) GDPR Lawfulness of processing	(c) Processing is necessary for compliance with a legal obligation to which the controller is subject
		(b) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
		Choose an item.
		Choose an item.

processing before taking part

E. Retention periods

When will the information retained by either Party or on the processing system be destroyed or deleted.

Data	Retention Period
Verified Personal Data & photo from chip, cropped photo from front document	Active during contract, archived for seven (7) years after account deletion
Identity verification & validation reports	Active during contract, archived for seven (7) years after account deletion
Photographic evidence (identity documents, selfies)	Deleted after 45 days, unless consent of user is provided to retain for a longer period
Social Security Number or BSN	Deleted after completion of registration
PKI Key Life Cycle data	Active during contract, archived for seven (7) years after account deletion
Organisation data	Active during contract, archived for seven (7) years after account deletion
Accounts not used in last 24 months	Deleted after 45 days
Accounts with incomplete registration	Deleted after 45 days
Accounts that have no service purchased	Deleted after 45 days

Digidentity Privacy Statement:

[https://ddy-corp-website-strapi-images.s3.eu-west-1.amazonaws.com/2024\\_v1\\_Privacy\\_Statement\\_sealed\\_79dc39770a.pdf](https://ddy-corp-website-strapi-images.s3.eu-west-1.amazonaws.com/2024_v1_Privacy_Statement_sealed_79dc39770a.pdf).