



Department
for Environment
Food & Rural Affairs

Contingency Official Veterinary Services for Scotland Framework Agreement

Reference 25812

December 2019

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SECTION 1

FORM OF AGREEMENT

THIS AGREEMENT is made on the 6th day of December 2019.

BETWEEN:

(1) THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS of Nobel House, 17 Smith Square, London, SW1P 3JR (the "**Authority**"); and

(2)

[REDACTED]

each a "**Party**" and together the "**Parties**".

WHEREAS:

A The Authority published a contract notice 2019/S 168-410963 on 02/09/2019 in the Official Journal of the European Union for the provision of Contingency Official Veterinary Services for Scotland.

B Following an invitation to tender for the services the Contractor submitted a tender on [REDACTED]

C On the basis of the Contractor's tender the Authority selected the Contractor to enter into this agreement to provide the services to the Authority and any other contracting authority listed in the published contract notice on a call-off basis in accordance with this agreement.

D This agreement sets out the terms and conditions on which the Authority and any other contracting authority listed in the published contract notice may order services from the Contractor and on which the Contractor will supply those services.

This Framework Agreement comprises the following:

- Section 1 Form of Agreement
- Section 2 Standard Terms and Conditions of Framework Agreement
- Schedule 1 Call Off Terms and Conditions
- Schedule 2 Specification
- Schedule 3 Pricing
- Schedule 4 Change Control
- Schedule 5 Data Processing

- Schedule 6 Standard Order and Response Form
- Schedule 7 Call Off Order Form
- Annex A Key Performance Indicators (KPIs)
- Annex B Travel and Subsistence Policy
- Annex C Map of Regional Lots
- Annex D List of Outcodes by Lot

SECTION 2

STANDARD TERMS AND CONDITIONS OF FRAMEWORK AGREEMENT

IT IS HEREBY AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Framework Agreement, unless the context otherwise requires:

1.1.1 capitalised expressions shall have the meanings set out in Schedule 1 to this Framework Agreement or the relevant Framework Agreement schedule in which that capitalised expression appears;

1.1.2 if a capitalised expression does not have an interpretation in Schedule 1 to this Framework Agreement or the relevant Framework Agreement schedule, it shall have the meaning given to it in this Framework Agreement. If no meaning is given to it in this Framework Agreement, it shall in the first instance be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning;

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

words importing the singular meaning include where the context so admits the plural meaning and vice versa;

words importing the masculine include the feminine and the neuter;

the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";

references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

- headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement;
- the Annexes form part of the Agreement and shall have effect as if set out in full in the body of the Agreement and any reference to the Agreement shall include the Annexes;
- references in the Agreement to any clause or sub-clause or Annexe without further designation shall be construed as a reference to the clause or sub-clause or Annexe to the Agreement so numbered;

- references in the Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Annexe to the Agreement so numbered; and
- reference to a clause is a reference to the whole of that clause unless stated otherwise.

2. TERM OF AGREEMENT

- 2.1 The Agreement commences on 15/12/2019 (the “**Commencement Date**”) and (unless it is terminated early or extended in accordance with the Agreement) shall end on 14/12/2023.

3. SCOPE OF THE AGREEMENT

- 3.1 The Agreement governs the relationship between a Customer and the Contractor in respect of the provision of the Services by the Contractor to a Customer.
- 3.2 Customers may order Services from the Contractor in accordance with the procedure in clause 5.
- 3.3 The Contractor understands and acknowledges that Customers are not obliged to purchase any Services from the Contractor and they may order Services similar to the Services from parties who are not Potential Contractors at any time.
- 3.4 If there is any conflict between the Agreement and the Call-Off Contract, the conflict shall be resolved according to the following order of priority:
- 3.4.1 the Call-Off Terms;
- 3.4.2 the Order Form; and
- 3.4.3 the Agreement.

4. EXECUTION AND CONTRACTOR’S APPOINTMENT

- 4.1 Execution of the Agreement is carried out in accordance with the 1999 EU Directive 99/93 (Community framework for electronic signatures) and the UK Electronic Communications Act 2000.
- 4.2 The Agreement is formed on the date on which both Parties communicate acceptance of its terms on the Authority’s electronic contract management system.
- 4.3 The Authority appoints the Contractor as a potential supplier of Services and the Contractor is eligible for Orders during the term of the Agreement.

5. CALL-OFF CONTRACT AWARD PROCEDURE

- 5.1 If a Customer requires Services in respect of any Lot to which the Contractor has been appointed, the Customer shall, without reopening competition:
- 5.1.1 identify the relevant Lot for its requirements;
- 5.1.2 apply the Direct Award Criteria in relation to each Potential Contractor under the relevant Lot; and
- 5.1.3 submit an Order Form to the selected Potential Contractor.

- 5.2 Following receipt of an Order Form, the Contractor shall promptly and in any event within a reasonable period determined by the Customer and notified to the Contractor in writing at the same time as the Order Form is submitted, notify the Customer either that it:
- 5.2.1 accepts the Order by signing and returning the Order Form; or
 - 5.2.2 declines the Order with detailed reasons why.
- 5.3 If the Contractor:
- 5.3.1 declines the Order; or
 - 5.3.2 the time-limit referred to in clause 5.2 has expired;
- then the Order shall lapse and the Customer may order Services from the next Potential Contractor in accordance with the Direct Award Criteria.
- 5.4 If the Contractor modifies or imposes conditions on the fulfilment of an Order, the Customer may either:
- 5.4.1 reissue the Order incorporating the modifications or conditions: or
 - 5.4.2 treat the Contractor's response as notification of its inability to fulfil the Order and the provisions of clause 5.3 shall apply.
- 5.5 A Customer may order Services using an Order Form in paper form, via electronic mail or other on-line medium.
- 5.6 The issue of an Order by the Customer is an "invitation to treat". Accordingly, the Contractor shall sign and return the Order Form which shall constitute its offer to the Customer. The Customer shall signal its acceptance of the Contractor's offer and the formation of a Call-Off Contract by counter-signing the Order Form.

6. RESPONSIBILITY FOR AWARDS

- 6.1 The Contractor acknowledges that each Customer is independently responsible for its award of Call-off Contracts and that the Authority has no liability for:
- 6.1.1 the conduct of any Customer (except the Authority itself) in relation to the Agreement; or
 - 6.1.2 the performance or non-performance of any Call-Off Contracts between the Contractor and any Customer (except the Authority itself).

7. WARRANTIES AND REPRESENTATIONS

- 7.1 The Contractor warrants and represents to the Authority and to other Customers that:
- 7.1.1 it has full capacity and authority to enter into and perform its obligations under the Agreement and any Call-Off Contract;
 - 7.1.2 the Agreement is executed by a duly authorised representative of the Contractor;
 - 7.1.3 it has not committed and will not commit any Prohibited Act by entering into the Agreement or any Call-Off Contract;

- 7.1.4 all information, statements and representations contained in its tender for the Services are true and accurate and not misleading;
- 7.1.5 no claim is being asserted and no litigation or similar action is being taken against it that might affect its ability to provide its obligations under the Agreement or any Call-Off Contract;
- 7.1.6 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets that will or might affect its ability to perform its obligations under the Agreement and any Call-Off Contract which may be entered into with the Authority or any other Customer;
- 7.1.7 no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- 7.1.8 it is not subject to any contractual obligation that is likely to have a detrimental effect on its ability to perform its obligations under the Agreement or any Call-Off Contract; and
- 7.1.9 from the commencement date of any Call-Off Contract it shall have all necessary licences, authorisations, consents or permits and shall be fully compliant with all applicable law in supplying the Services.

8. PERFORMANCE

- 8.1 The Contractor shall perform all Call-Off Contracts in accordance with the requirements of the Agreement and the Call-Off Contract.
- 8.2 If reasonably requested to do so by the Authority, the Contractor shall cooperate fully with any Customer in providing the Services and with other suppliers engaged by the Customer.

9. PRICES FOR SERVICES

- 9.1 The prices set out in the Pricing Matrix shall apply to any Services ordered pursuant to the Agreement.
- 9.2 The Authority is not liable to the Contractor or any other Customer for payment or otherwise in respect of any Services provided by the Contractor to any other Customer.

10. STATUTORY REQUIREMENTS

- 10.1 The Contractor shall obtain all licences, authorisations, consents or permits required in relation to the performance of the Agreement and any Call-Off Contract.

11. TRANSFER AND SUB-CONTRACTING

- 11.1 The Agreement is personal to the Contractor and the Contractor shall not assign, novate or otherwise dispose of the Agreement or any part thereof without the Authority's prior written consent.

- 11.2 The Contractor shall not be entitled to sub-contract any of its rights or obligations under the Agreement.
- 11.3 The Authority may:
- 11.3.1 assign, novate or otherwise dispose of its right and obligations under the Agreement or any part thereof to any other Customer; or
 - 11.3.2 novate the Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority
- provided that such assignment, novation or disposals shall not increase the burden of the Contractor's obligations under the Agreement.

12. VARIATIONS TO THE AGREEMENT

- 12.1 Any variations to the Agreement, a Call-Off Contract or an Order Form must be made in accordance with the change control notice procedure set out in the Call-Off Contract using the form in Schedule 5.

13. RIGHTS OF THIRD PARTIES

- 13.1 A person who is not a Party shall have no right to enforce any provision of the Agreement which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties. This clause 13 does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

14. ENTIRE AGREEMENT

- 14.1 The Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with therein. The Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause 14 shall not exclude liability in respect of any fraud or fraudulent misrepresentation.

15. TERMINATION AND SUSPENSION

- 15.1 The Authority may terminate the Agreement by serving written notice on the Contractor with immediate effect if:
- 15.1.1 the Contractor commits a Material Breach and:
 - i) it has not remedied the Material Breach to the Authority's satisfaction within 20 working days or such other period as may be specified by the Authority after issue of a written notice specifying the Material Breach and requesting it to be remedied; or
 - ii) the Material Breach is not, in the Authority's reasonable opinion, capable of remedy
 - 15.1.2 there is a material detrimental change in the Contractor's financial standing and/or credit rating which adversely affects the Contractor's ability to supply the Services.
- 15.2 The Authority may terminate the Agreement by giving 3 months' written notice to the Contractor.

- 15.3 The Contractor may terminate the Agreement by giving 6 months' written notice to the Authority.
- 15.4 Without prejudice to the Authority's rights to terminate the Agreement pursuant to clauses 15.1 and 15.2, if a right to terminate the Agreement arises in accordance with clauses 15.1 or 15.2, the Authority may suspend the Agreement with regard to any or all of the Lots by giving notice in writing to the Contractor.
- 15.5 If the Authority suspends the Agreement in accordance with clause 15.4, the Agreement shall be suspended for the period set out in the notice or such other period notified to the Contractor by the Authority in writing from time to time.
- 15.6 Termination or expiry of the Agreement shall not cause any Call-Off Contracts to terminate automatically. All Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with the Call-Off Contract.
- 15.7 Termination or expiry of the Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under the Agreement prior to termination or expiry.

16. DISPUTES

- 16.1 If a dispute arises out of or in connection with the Agreement (a "**Dispute**") either Party shall give to the other Party a written notice of the Dispute, setting out its nature and full particulars (a "**Dispute Notice**").
- 16.2 On service of a Dispute Notice, the Parties shall in good faith attempt to resolve the Dispute within 20 working days of the date of the Dispute Notice and if they cannot do so they shall consider and use a process of alternative dispute resolution which is appropriate for the Dispute and to which they both agree.
- 16.2 Neither Party may commence any court proceedings against the other Party in connection with a Dispute until 80 working days after the date of the Dispute Notice provided that the right to issue proceedings is not prejudiced by a delay.

17. REPORTS AND MEETINGS

- 17.1 If requested by the Authority:
- 17.1.1 the Contractor shall submit Management Information to the Authority throughout the term of the Agreement in any form reasonably required by the Authority on the last day of every month and thereafter in respect of any Call-Off Contract; and
- 17.1.2 the Parties shall meet and discuss the Management Information.
- 17.2 The Authority may:
- 17.2.1 share the Management Information supplied by the Contractor with any other Customer; and
- 17.2.2 change the scope of Management Information and shall give the Contractor at least one month's written notice of any change.

18. RECORDS AND AUDITS

- 18.1 The Contractor shall keep and maintain for 6 years after the date of termination or expiry (whichever is the earlier) of the Agreement accurate records and accounts of the operation of the Agreement including the Services provided under it, any Call-Off Contracts and the amounts paid by each Customer.
- 18.2 The Contractor shall keep the records and accounts referred to in clause 18.1 in accordance with good accountancy practice.
- 18.3 The Contractor shall afford the Authority and the NAO access to such records and accounts as may be required from time to time.
- 18.4 The Contractor shall provide such records and accounts (together with copies of the Contractor's published accounts) during the term of the Agreement and for a period of 6 years after expiry of the Agreement to the Authority (or relevant Customer) and the NAO.
- 18.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Contractor or delay the provision of the Services, save insofar as the Contractor accepts and acknowledges that control over the conduct of Audits carried out by the NAO is outside of the Authority's control.
- 18.6 Subject to the Authority's rights of confidentiality, the Contractor shall on demand provide the NAO with all reasonable co-operation and assistance in relation to each Audit, including:
- 18.6.1 all information requested by the NAO within the scope of the Audit;
 - 18.6.2 reasonable access to sites controlled by the Contractor and to equipment used in the provision of the Services; and
 - 18.6.3 access to its staff.
- 18.7 The Parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 0, unless the Audit reveals a material Default by the Contractor in which case the Contractor shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

19. CONFIDENTIALITY

- 19.1 Subject to clause 0, the Parties shall keep confidential the Confidential Information of the other Party and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 19.2 Clause 0 shall not apply to any disclosure of information:
- 19.2.1 required by any applicable law, provided that clause 21.1 shall apply to any disclosures required under the FOIA or the EIR;
 - 19.2.2 that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under the Agreement;
 - 19.2.3 that is reasonably required by other Customers;
 - 19.2.4 if a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 19.1;

- 19.2.5 by the Authority of any document to which it is a party and which the Parties to the Agreement have agreed contains no Confidential Information;
- 19.2.6 to enable a determination to be made under clause 16;
- 19.2.7 which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party, and the disclosing Party is not under any obligation of confidence in respect of that information;
- 19.2.8 by the Authority to any other department, office or agency of the government, provided that Authority informs the recipient of any duty of confidence owed in respect of the information; and
- 19.2.9 by the Authority relating to the Agreement and in respect of which the Contractor has given its prior written consent to disclosure.

20. DATA PROTECTION

- 20.1 The Parties acknowledge that for the purposes of the Data Protection Legislation:
 - 20.1.1 the Customer is the Controller and the Contractor is the Processor of the Personal Data specified in Schedule 5; and
 - 20.1.2 the parties may provide each other with Personal Data relating to persons employed by them and their agents, suppliers and Sub-Contractors for purposes of administering the Framework Agreement and each Party will be an independent Controller of such Personal Data (because the Parties each, independently of each other, determine the means and purposes of processing such Personal Data).
- 20.2 Both parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Framework Agreement.
- 20.3 Each party will, prior to providing Personal Data of which it is the Controller to the other, be responsible for ensuring the Data Subject has received adequate privacy information in accordance with GDPR Article 13 to enable the receiving party to process the Personal Data as permitted under clause 20.4 or 20.5 (as applicable).
- 20.4 The only processing of Personal Data specified in clause 20.1.1 that the Contractor is authorised to do is listed in Schedule 5 by the Authority and may not be determined by the Contractor. The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 20.5 The only processing of Personal Data specified in clause 20.1.2 that the parties are authorised to do is processing for purposes administration of the Framework Agreement.
- 20.6 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
 - 20.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 20.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

20.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

20.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

20.7 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:

20.7.1 process that Personal Data only in accordance with Schedule 5 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

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

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

20.7.3 ensure that:

- (i) the Staff do not process Personal Data except in accordance with this Framework Agreement (and in particular Schedule 5);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Contractor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Framework Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

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

- (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data

that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and

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

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

20.8 Subject to clause 20.9 the Contractor shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement, it:

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

20.8.2 receives a request to rectify, block or erase any Personal Data;

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

20.8.4 receives any communication from the Information Commissioner or any other regulatory authority;

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

20.8.6 becomes aware of a Data Loss Event.

20.9 The Contractor's obligation to notify under clause 20.8 shall include the provision of further information to the Authority in phases, as details become available.

20.10 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Framework Agreement and any complaint, communication or request made under Clause 18.8 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

20.10.1 the Authority with full details and copies of the complaint, communication or request;

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

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

20.10.4 assistance as requested by the Authority following any Data Loss Event;

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

- 20.11 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 18. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
- 20.11.1 the Authority determines that the processing is not occasional;
 - 20.11.2 the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - 20.11.3 the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 20.12 The Contractor shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.
- 20.13 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 20.14 Before allowing any Sub-processor to process any Personal Data related to this Framework Agreement, the Contractor must:
- 20.14.1 notify the Authority in writing of the intended Sub-processor and processing;
 - 20.14.2 obtain the written consent of the Authority;
 - 20.14.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 18 such that they apply to the Sub-processor; and
 - 20.14.4 provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 20.15 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 20.16 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause 18 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Framework Agreement).
- 20.17 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 20.18 This clause 18 shall apply during the Contract Period and indefinitely after its expiry.

21. FREEDOM OF INFORMATION

- 21.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the Authority (at the Contractor's expense) to enable the Authority to comply with these information disclosure requirements.
- 21.2 The Contractor shall and shall procure that its subcontractors shall:

- 21.2.1 transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within 2 working days of receiving a Request for Information;
 - 22.2.2 provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within 5 working days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - 22.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 21.3 The Contractor shall not respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 21.4 The Contractor acknowledges that the Authority may (acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004) be obliged under the FOIA or the EIR to disclose Information:
- 21.4.1 without consulting with the Contractor; or
 - 21.4.2 following consultation with the Contractor and having taken its views into account
- provided always that where clause 21.4.1 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 21.5 The Contractor shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 21.6 The Contractor acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 21.3.

22. PUBLICITY

- 22.1 Unless otherwise directed by the Authority, the Contractor shall not make any press announcements or publicise the Agreement in any way without the Authority's prior written consent.
- 22.2 The Authority may publicise the Agreement in accordance with any legal obligation on the Authority including any examination of the Agreement by the NAO or otherwise.
- 22.3 The Contractor shall not do anything that may damage the Authority's reputation or bring the Authority into disrepute.

23. PREVENTION OF BRIBERY

- 23.1 The Contractor:
 - 23.1.1 shall not, and shall procure that its staff and all sub-contractor personnel shall not, in connection with the Agreement and any Call-Off Contract commit a Prohibited Act; and

- 23.1.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by a Customer, or that an agreement has been reached to that effect, in connection with the execution of the Agreement, excluding any arrangement of which full details have been disclosed in writing to the Customer before execution of the Agreement.
- 23.2 The Contractor shall:
- 23.2.1 if requested by a Customer, provide the Customer with any reasonable assistance, at the Customer's reasonable cost, to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
- 23.2.2 within 60 working days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Contractor) compliance with this clause 23 by the Contractor and all persons associated with it. The Contractor shall provide such supporting evidence of compliance as the Authority may reasonably request.
- 23.3 The Contractor shall have an anti-bribery policy (which shall be disclosed to Customers) to prevent its staff and sub-contractors from committing a Prohibited Act and shall enforce it where appropriate.
- 23.4 If any breach of clause 23.1 is suspected or known, the Contractor must notify the Authority immediately.
- 23.5 If the Contractor notifies the Authority that it suspects or knows that there may be a breach of this clause **Error! Reference source not found.**, the Contractor must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documents.
- 23.6 The Customer may terminate the Agreement by written notice with immediate effect if the Contractor, its staff or sub-contractors (in all cases whether or not acting with the Contractor's knowledge) breaches clause 23.1.
- 23.7 Any notice of termination under clause 23.6 must specify:
- 23.7.1 the nature of the Prohibited Act;
- 23.7.2 the identity of the party whom the Authority believes has committed the Prohibited Act; and
- 23.7.3 the date on which the Agreement will terminate.
- 23.8 Notwithstanding clause 16, any dispute relating to:
- 23.8.1 the interpretation of this clause **Error! Reference source not found.**; or
- 23.8.2 the amount or value of any gift, consideration or commission
- shall be determined by the Authority and its decision shall be final and conclusive.
- 23.9 Any termination under this clause 23 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

24. GOVERNING LAW

- 24.1 The Agreement shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales.
- 24.2 The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

SCHEDULE 1 - TERMS AND CONDITIONS OF CALL-OFF CONTRACTS

A GENERAL PROVISIONS

A1 Definitions and Interpretation

Unless the context otherwise requires the following terms shall have the meanings given to them below:

“**Affected Party**” means the Party seeking relief in respect of a Force Majeure Event.

“**Affiliate**” means in relation to a body corporate, any other entity which directly or indirectly Controls is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

“**AP**” means ‘affected premises’ which are subject to a notice of the Secretary of State/Scottish Ministers/Welsh Ministers declaring it to be either infected with a disease (Infected Premises) or where there is a strong suspicion that an Exotic Notifiable Disease may be present. Entry and exit restrictions are likely to apply.

“**APHA**” means the Animal and Plant Health Agency, an Executive Agency of the Authority.

“**Approval**” and “**Approved**” means the Customer’s prior written consent.

“**Authority**” means the Secretary of State for Environment, Food and Rural Affairs. Management of Call-off Contracts will be delegated to the APHA Contract Management Team (CMT).

“**Authorised Representative**” means the Customer representative named in the CCN as authorised to approve agreed Variations.

“**Authority Materials**” means all guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs, images, videos or other material which is furnished to or made available to the Contractor by or on behalf of the Authority and/or any Personal Data for which the Authority is Data Controller.

“**BPSS**” means the HMG Baseline Personnel Security Standard for Government employees.

“**Bravo**” means the Customer’s electronic contract management system.

“**Call-Off Contract**” has the meaning given to it in the Framework Agreement.

“**Call-off Procedure**” means the process by which the Authority will award Call-Off Contracts to Contractors as set out in the Contract.

“**Call-Off Terms and Conditions**” means the standard terms and conditions of the Call-Off Contract as set out in Schedule 1.

“**CCN**” means a change control notice in the form set out in Schedule 4

“**Commencement Date**” means the date set out in section 1.2 of the Order Form.

“Commercially Sensitive Information” means the information set out in section 3 of the Order Form:

- (a) which is provided by the Contractor to the Customer in confidence for the period set out in section 3 of the Order Form; and/or
- (b) which constitutes a trade secret.

“Completion Date” means the date of expiry of the Call-Off Contract set out in the Order Form.

“Confidential Information” means any information which has been designated as confidential by the disclosing party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of the disclosing party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“Contract Period” means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an extension, the end date of the extended period

or such earlier date of termination or partial termination of the Call-Off Contract in accordance with the Law or the Call-Off Contract.

“Contracting Authority” means any contracting authority (other than the Customer) as defined in regulation 3 of the Public Contracts Regulations 2006 (SI 2006/5).

“Contractor” means the Party appointed as a potential supplier of Services as identified in section 1 to this Framework Agreement and the Party identified as such in the Order Form.

“Contractor Equipment” means the Contractor’s equipment, consumables, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under any Call-Off Contract.

“Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services and which is set out in section 4 of the Order Form.

“Contractor System” means the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Customer System).

“Contractor’s Representative” means any competent person appointed by the Contractor to be his representative in relation to the performance of any Call-Off Contract who will receive and act on any directions given by the Contract Manager.

“Control” means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly.

“Controller” has the meaning given in the GDPR.

“COV” means Contingency Official Veterinarian.

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and **“Crown Body”** is an emanation of the foregoing.

“Customer” is the Party identified as such in the Order Form.

“Customer Data” means:

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Contractor by or on behalf of the Customer; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to the Call-Off Contract; or
- (b) any Personal Data for which the Customer is the Data Controller.

“Customer Premises” means any premises owned, occupied or controlled by the Customer or any other Crown Body which are made available for use by the Contractor or its Sub-Contractors for provision of the Services.

“Customer Software” means software which is owned by or licensed to the Customer (other than under or pursuant to the Call-Off Contract) and which is or will be used by the Contractor for the purposes of providing the Services.

“Customer System” means the Customer’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Customer or the Contractor in connection with the Call-Off Contract which is owned by or licensed to the Customer by a third party and which interfaces with the Contractor System or which is necessary for the Customer to receive the Services.

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under the Framework Agreement or Call-Off Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Framework Agreement or Call-Off Contract, including any Personal Data Breach.

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

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

“Data Protection Officer” has the meaning given in the GDPR.

“Data Subject” has the meaning given in the GDPR.

“Data Subject Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

“Default” means any breach of the obligations of the relevant Party (including abandonment of the Call-Off Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Call-Off Contract and in respect of which such Party is liable to the other.

“Defra” means the Department for the Environment, Farming and Rural Affairs.

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

“EIR” means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

“End Date” means the date the Call-Off Contract ends set out in section 1.3 of the Order Form.

“Equipment” means the Contractor’s equipment, consumables, plant, materials and such other items supplied and used by the Contractor in the delivery of the Services.

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

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under the Call-Off Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor’s supply chain.

“Framework Agreement” means the framework agreement entered into between the Contractor and the Authority pursuant to which the Customer and the Contractor have contracted for the Services.

“Framework Commencement Date” means the date of commencement of the Framework Agreement as set out in clause 2.1 of Section 2 of the Framework Agreement.

“General Anti-Abuse Rule” means:

- (a) the legislation in Part 5 of the Finance Act 2013; and

- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.

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

“Geographical Regions / Region” means the Geographical Regions as specified in within the Specification.

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

“Goods” means any goods supplied by the Contractor (or by a Sub-Contractor) under the Call-Off Contract as specified in section 1 of the Order Form and any modified or alternative goods.

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others.

“HMRC” means HM Revenue & Customs.

“ICT Environment” means the Customer System and the Contractor System.

“Incident” means an occasion, which may or may not include an occurrence of Exotic Notifiable Disease, where the Services may be required at short notice (within six (6) to twelve (12) hours).

“Information” has the meaning given under section 84 of the FOIA.

“Initial Contract Period” means the period from the Commencement Date to the End Date.

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

“Invitation to Tender or ITT” means the Invitation to Tender for a Framework with Tender Reference 2252 issued on [insert date] and all related documents published by the Authority and made available to the Contractor and other tenderers.

“IP Materials” has the meaning given to it in clause E7.1 (Intellectual Property Rights) of the Call-Off Contract.

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003.

“Key Personnel” mean any persons identified as key personnel in section 1 of the Order Form.

“Know-How” means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

“Law” means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a

relevant court of law, or directives or requirements of any Regulatory Body with which the Contractor is bound to comply.

“Lot” or “Lots” means the lot(s) in respect of which Services may be ordered from the Contractor and which are described in Schedule 2 to this Framework Agreement.

“Malicious Software” means 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.

“Material Breach” means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Customer would otherwise derive from:

- (a) a substantial portion of the Call-Off Contract; or
- (b) any of the obligations set out in clauses A6, D1, E1, E2, E3, E4, E7, E8 or E10.

“Month” means calendar month.

“NICs” means National Insurance Contributions.

“Occasion of Tax Non-Compliance” means:

- (a) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

“OJEU Notice” means the contract notice [insert details] published in the Official Journal of the European Union.

“Outbreak” means an occurrence of Exotic Notifiable Disease at one or more premises.

“Out Codes” means the first part of a UK postcode.

“Order Form” has the meaning given to it in the Framework Agreement.

“Party” means either the Contractor or the Customer and **“Parties”** shall mean both.

“Personal Data” has the meaning given in the GDPR.

“Personal Data Breach” has the meaning given in the GDPR.

“PPE” means Personal Protective Equipment

“Premises” means the location where the Services are to be supplied as set out in the Specification.

“Price” means the price (excluding any applicable VAT) payable to the Contractor by the Customer under the Call-Off Contract, as set out in section 2 of the Order Form for the full and proper performance by the Contractor of its obligations under the Call-Off Contract.

“Processor” has the meaning given in the GDPR.

“Prohibited Act” means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Call-Off Contract;
- (c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) the defrauding, attempting to defraud or conspiring to defraud the Customer;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

“Property” means the property, other than real property, issued or made available to the Contractor by the Customer in connection with the Call-Off Contract.

“Public Contracts Regulations” means the Public Contracts Regulations 2015 (SI 2015/102)

“Purchase Order Number” means the purchase order number specified by the Customer in the Order Form.

“Quality Standards” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Services.

“Receipt” means the physical or electronic arrival of the invoice at the address specified in clause A4.4 or at any other address given by the Customer to the Contractor for the submission of invoices from time to time.

“Regulatory Body” means a government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of

practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Call-Off Contract or any other affairs of the Customer.

"Relevant Conviction" means a conviction that is relevant to the nature of the Services or as listed by the Customer and/or relevant to the work of the Customer.

"Relevant Requirements" means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

"Relevant Tax Authority" means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

"Replacement Contractor" means any third party supplier appointed by the Customer to supply any goods and/or services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Call-Off Contract.

"Request for Information" means a request for information under the FOIA or the EIR.

"Returning Employees" means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period.

"Security Policy Framework" means the HMG Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) as updated from time to time.

"Selection Methodology" means the selection methodology set out in Schedule 2 to this Framework Agreement, to be applied for the award of Call-Off Contracts.

"Services" means the services set out in Section 1 of the Order Form (including any modified or alternative services) and, if the context requires, includes Goods.

"Specification" means the description of the Services to be supplied under the Call-Off Contract as set out in section 1 of the Order Form including, where appropriate, any Key Personnel, Premises and Quality Standards.

"SSCBA" means the Social Security Contributions and Benefits Act 1992.

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

"Sub-Contractor" means a third party directly or indirectly contracted to the Contractor (irrespective of whether such person is an agent or company within the same group of companies as the Contractor) whose services and/or goods are used by the Contractor (either directly or indirectly) in connection with the provision of the Services, and **"Sub-Contract"** shall be construed accordingly.

"Tender" means the document submitted by the Contractor to the Authority in response to the Authority's invitation to suppliers for formal offers to be appointed to the Framework Agreement.

"Third Party IP Claim" has the meaning given to it in clause E8.7 (Intellectual Property Rights).

"Third Party Software" means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in section 4 of the Order Form.

“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“**TUPE Information**” means the information set out in clause B17.1.

“**Valid Invoice**” means an invoice containing the information set out in clause C2.5.

“**Variation**” means any variation to the Call-Off Contract.

“**VAT**” means value added tax charged or regulated in accordance with the provisions of the Value Added Tax Act 1994.

“**Working Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

In the Call-Off Terms, unless the context implies otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Call-Off Contract;
- (g) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (h) references to the Call-Off Contract are references to the Call-Off Contract as amended from time to time.

A2 The Customer’s Obligations

A2.1 Save as otherwise expressly provided, the obligations of the Customer under the Call-Off Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Call-Off Contract shall operate as an obligation upon, or in any other way fetter or constrain the Customer in any other capacity, and the exercise by the Customer of its duties and powers in any other capacity shall not lead to any liability (howsoever arising) on the part of the Customer to the Contractor.

A3 Contractor’s Status

A3.1 The Contractor shall be an independent contractor and nothing in the Call-Off Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the

name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Call-Off Contract.

- A3.2 The Contractor shall not (and shall ensure that any other person engaged in relation to the Call-Off Contract shall not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent or employee of the Customer.

A4 Notices and Communications

- A4.1 Subject to clause A4.3, if the Call-Off Terms state that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.

- A4.2 If it is not returned as undelivered a notice served:

- (a) in a letter is deemed to have been received 2 Working Days after the day it was sent; and
- (b) in an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

- A4.3 Notices pursuant to clauses G3 (Force Majeure), I2 (Dispute Resolution) or to terminate the Call-Off Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.

A5 Mistakes in Information

- A5.1 The Contractor is responsible for the accuracy of all drawings, documentation and information supplied to the Customer by the Contractor in connection with the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

A6 Conflicts of Interest

- A6.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Customer under the provisions of the Call-Off Contract. The Contractor will notify the Customer without delay giving full particulars of any such conflict of interest which may arise.

- A6.2 The Customer may terminate the Call-Off Contract immediately by notice and/or take or require the Contractor to take such other steps it deems necessary if, in the Customer’s reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Customer under the provisions of the Call-Off Contract. The actions of the Customer pursuant to this clause A6 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

B. THE SERVICES

B1 Specification

B1.1 In consideration of the Contractor supplying the Services the Customer shall pay the Price.

B2 Samples

B2.1 If requested by the Customer, the Contractor shall provide the Customer with samples of Goods for evaluation and Approval, at the Contractor's cost and expense.

B2.2 The Contractor shall ensure that the Goods are fully compatible with any equipment, to the extent specified in the Specification.

B2.3 The Contractor acknowledges that the Customer relies on the skill and judgment of the Contractor in the supply of the Goods and the performance of the Contractor's obligations under the Call-Off Contract.

B3 Delivery

B3.1 Unless otherwise stated in the Specification, if the Goods are delivered by the Contractor, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Premises. If the Goods are collected by the Customer, the point of delivery shall be when the Goods are loaded on the Customer's vehicle.

B3.2 Except where otherwise provided in the Call-Off Contract, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Contractor's suppliers or carriers at such place as the Customer or duly authorised person shall reasonably direct.

B3.3 Any access to the Premises and any labour and equipment that may be provided by the Customer in connection with delivery shall be provided without acceptance by the Customer of any liability whatsoever to the extent permitted by law.

B3.4 Where access to the Premises is necessary in connection with delivery or installation of the Goods, the Contractor and its Sub-Contractors shall at all times comply with the security requirements of the Customer.

B3.5 The Customer is under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.

B3.6 The Customer is under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Customer elects not to accept such over-delivered Goods it shall give notice to the Contractor to remove them within 5 Working Days and to refund to the Customer any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Customer may dispose of such Goods and charge the Contractor for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Contractor unless they are accepted by the Customer.

B3.7 Unless expressly agreed to the contrary, the Customer shall not accept delivery by instalments. If, however, the Customer does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Customer, entitle the Customer to

terminate the whole of any unfulfilled part of the Call-Off Contract without further liability to the Customer.

- B3.8 The Customer may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice. The Contractor shall provide free of charge all such facilities as the Customer may reasonably require for such inspection and examination. In this clause B3, Services include planning or preliminary work in connection with the supply of the Services.
- B3.9 If reasonably requested to do so by the Customer, the Contractor shall co-ordinate its activities in supplying the Services with those of the Customer and other contractors engaged by the Customer.
- B3.10 Subject to Approval timely supply of the Services is of the essence of the Call-Off Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Contractor fails to deliver the Services within the time promised or specified in the Specification, the Customer is released from any obligation to accept and pay for the Services and may terminate the Call-Off Contract, in either case without prejudice to any other rights and remedies of the Customer.

B4 Risk and Ownership

- B4.1 Subject to clauses B3.5 and B3.6, risk in the Goods shall, without prejudice to any other rights or remedies of the Customer (including the Customer's rights and remedies under clause F1 (Failure to meet Requirements)), pass to the Customer at the time of delivery.
- B4.2 Ownership in the Goods shall, without prejudice to any other rights or remedies of the Customer (including the Customer's rights and remedies under clause F1), pass to the Customer at the time of delivery (or payment, if earlier).

B5 Non-Delivery

- B5.1 On dispatch of any consignment of the Goods the Contractor shall send the Customer an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume.
- B5.2 If the Customer has been informed in writing of the despatch of the Goods and, having been placed in transit, the Goods are not delivered to the Customer on the due date for delivery, the Customer shall, within 10 Working Days of the notified date of delivery, give notice to the Contractor that the Goods have not been delivered and may request the Contractor to deliver substitute Goods free of charge within the timescales specified by the Customer or terminate the Call-Off Contract in accordance with clause B3.10.

B6 Labelling and Packaging

- B6.1 The Contractor shall ensure that the Goods are labelled and packaged in accordance with the Call-Off Contract.
- B6.2 The Contractor shall comply with the Packaging & Packaging Waste Directive (94/62/EC), implemented in the UK by the Packaging (Essential Requirements) Regulations 2003. The container in which the Goods are held shall be labelled with the Contractor's name, the net, gross and tare weights, and contain a description of its contents. All containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.

- B6.3 The Contractor shall remove and dispose of all packaging materials from the Premises within the period specified by the Customer and at no cost to the Customer.
- B6.4 If no period for collection and disposal is specified by the Customer, the Contractor shall collect the packaging from the Premises no later than 10 Working Days from the date of delivery of the Goods. The Customer may dispose of any packaging materials which have not been collected by the Contractor within those 10 Working Days or such other period specified by the Customer for collection. The Contractor shall pay any costs incurred by the Customer in connection with its collection and disposal of that packaging material.
- B6.5 The Contractor shall:
- (a) use packaging capable of easy recovery for further use or recycling. Packaging materials shall be easily separable by hand into recyclable parts consisting of one material (e.g. cardboard, paper, plastic, textile);
 - (b) reuse the packaging and, where reuse is not practicable, recycle the materials in the manufacture of crates, pallets, boxes, cartons, cushioning and other forms of packaging, where these fulfil other packaging specifications;
 - (c) make maximum use of materials taken from renewable sources, if recycled materials are not suitable or not readily available;
 - (d) if using wooden pallets or timber derived products for the packaging and supply of Goods, comply with the UK timber procurement policy and the provisions in clause D5;
 - (e) review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist; and
 - (f) if requested to do so, provide the Customer with a description of the product packaging and evidence to satisfy the Customer that it is reusing, recycling and reviewing its use of packaging. The evidence should provide proof of compliance with BS EN 13430 on recyclability or BS EN 13429 on reusability, or equivalent.

B7 Training

- B7.1 If included in the Specification, the Price includes the cost of instruction of the Customer's personnel in the use and maintenance of the Goods and such instruction shall be in accordance with the requirements detailed in the Specification.

B8 Provision and Removal of Equipment

- B8.1 The Contractor shall provide all the Equipment and resource necessary for the supply of the Services.
- B8.2 The Contractor shall not deliver any Equipment to nor begin any work on the Premises without obtaining Approval.
- B8.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Customer shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Customer's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost.

- B8.4 Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.
- B8.5 If the cost of Equipment is reimbursed to the Contractor such Equipment shall be the property of the Customer and shall on request be delivered to the Customer as directed by the Customer. The Contractor will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Customer on request and on completion of the Services.
- B8.6 The Contractor shall maintain all Equipment in a safe, serviceable and clean condition.
- B8.7 The Contractor shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
- (a) remove immediately from the Premises, Equipment which is, in the Customer's opinion, hazardous, noxious or not supplied in accordance with the Call-Off Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B8.8 Within 20 Working Days of the End Date, the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor shall make good any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Contractor or Staff.

B9 Goods Delivery

- B9.1 The Contractor shall perform its obligations under the Call-Off Contract:
- (a) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
 - (b) in accordance with Good Industry Practice; and
 - (c) in compliance with all applicable Laws.
- B9.2 The Contractor shall ensure the Goods:
- (a) conform in all respects with the Specification and, where applicable, with any sample approved by the Customer;
 - (b) operate in accordance with the relevant technical specifications and correspond with the requirements of the Specification;
 - (c) conform in all respects with all applicable Laws; and
 - (d) are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such goods are ordinarily used and for any particular purpose made known to the Contractor by the Customer.

B10 Service Delivery

- B10.1 The Contractor shall at all times comply with the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of the Service has not been specified in the Call-Off

Contract, the Contractor shall agree the relevant standard of the Services with the Customer prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Call-Off Contract in accordance with the Law and Good Industry Practice.

- B10.2 The Contractor shall ensure that all Staff supplying the Services do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Contractor shall ensure that those Staff are properly managed and supervised.
- B10.3 If the Specification includes installation of equipment the Contractor shall notify the Customer in writing when it has completed installation. Following receipt of such notice, the Customer shall inspect the installation and shall, by giving notice to the Contractor:
- (a) accept the installation; or
 - (b) reject the installation and inform the Contractor why, in the Customer's reasonable opinion, the installation does not satisfy the Specification.
- B10.4 If the Customer rejects the installation pursuant to clause B10.3(b), the Contractor shall immediately rectify or remedy any defects and if, in the Customer's reasonable opinion, the installation does not, within 2 Working Days or such other period agreed by the Parties, satisfy the Specification, the Customer may terminate the Call-Off Contract with immediate effect by notice.
- B10.5 The installation shall be complete when the Contractor receives a notice issued by the Customer in accordance with clause B10.3(a). Notwithstanding acceptance of any installation in accordance with clause B10.3(a), the Contractor shall remain solely responsible for ensuring that the Services and the installation conform to the Specification. No rights of estoppel or waiver shall arise as a result of the acceptance by the Customer of the installation.
- B10.6 During the Contract Period, the Contractor shall:
- (a) at all times have all licences, approvals and consents necessary to enable the Contractor and Staff to carry out the installation;
 - (b) provide all tools and equipment (or procure the provision of all tools and equipment) necessary for completion of the installation; and
 - (c) not, in delivering the Services, in any manner endanger the safety or convenience of the public.

B11 Key Personnel

- B11.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services.
- B11.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar extenuating circumstances.
- B11.3 In accordance with Section 1.10 of Schedule 2 (Specification of Requirements) if the named COV ceases to be employed by the Contractor, the Authority shall terminate the contract with the COV/Contractor. The Contractor cannot replace the departing COV with a new COV under this Framework Agreement.

B11.4 The Customer may, by notice to the Contractor, ask it to remove any Staff whose presence is, in the Customer's reasonable opinion, undesirable. The Contractor shall comply with any such request immediately.

B12 Contractor's Staff

B12.1 The Customer may, by notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Customer's Premises:

(a) any member of the Staff; or

(b) any person employed or engaged by any member of the Staff,

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

B12.2 At the Customer's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in to the Customer's Premises, specifying the capacities in which they are concerned with the Call-Off Contract and giving such other particulars as the Customer may reasonably request.

B12.3 The decision of the Customer as to whether any person is to be refused access to the Customer's Premises and as to whether the Contractor has failed to comply with clause B12.2 shall be final.

B12.4 The Contractor shall ensure that all Staff who have access to the Customer's Premises, the Customer System or the Customer Data have been cleared in accordance with the BPSS.

B13 Inspection of Premises

B13.1 Save as the Customer may otherwise direct, the Contractor is deemed to have inspected the Premises before submitting its Tender and to have complete due diligence in relation to all matters connected with the performance of its obligations under the Call-Off Contract.

B14 Licence to Occupy Premises

B14.1 Any land or Premises made available from time to time to the Contractor by the Customer in connection with the Call-Off Contract shall be on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Call-Off Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on termination of the Call-Off Contract.

B14.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary for it to perform its obligations under the Call-Off Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Customer may reasonably request.

B14.3 Should the Contractor require modifications to the Customer's Premises, such modifications shall be subject to Approval and shall be carried out by the Contractor at the Contractor's expense. The Customer shall undertake approved modification work without undue delay.

- B14.4 The Contractor shall (and shall ensure that any Staff on the Customer's Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Customer's Premises as determined by the Customer.
- B14.5 The Call-Off Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Call-Off Contract, the Customer retains the right at any time to use the Premises owned or occupied by it in any manner it sees fit.

B15 Property

- B15.1 All Property is and shall remain the property of the Customer and the Contractor irrevocably licenses the Customer and its agents to enter any Premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Customer. The Contractor shall take all reasonable steps to ensure that the title of the Customer to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Customer.
- B15.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Customer otherwise within 5 Working Days of receipt.
- B15.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Call-Off Contract and for no other purpose without Approval.
- B15.4 The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Customer's reasonable security requirements as required from time to time.
- B15.5 The Contractor shall be liable for all loss of or damage to the Property, unless such loss or damage was caused by the Customer's negligence. The Contractor shall inform the Customer immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B16 Offers of Employment

- B16.1 Except in respect of any transfer of Staff under TUPE, for the Contract Period and for 12 Months thereafter the Contractor shall not employ or offer employment to any of the Customer's staff who have been associated with the Services and/or the Call-Off Contract without Approval.

B17 Employment Provisions

- B17.1 Not later than 12 Months prior to the end of the Contract Period, the Contractor shall fully and accurately disclose to the Customer all information that the Customer may reasonably request in relation to the Staff including the following:
- (a) the total number of Staff whose employment/engagement shall terminate at the end of the Contract Period, save for any operation of Law;

- (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B17.1 (a);
- (c) the terms and conditions of employment/engagement of the Staff referred to in clause B17.1 (a), their job titles and qualifications;
- (d) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
- (e) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

B17.2 At intervals determined by the Customer (which shall not be more frequent than once every 30 days) the Contractor shall give the Customer updated TUPE Information.

B17.3 Each time the Contractor supplies TUPE Information to the Customer it shall warrant its completeness and accuracy and the Customer may assign the benefit of this warranty to any Replacement Contractor.

B17.4 The Customer may use TUPE Information it receives from the Contractor for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Contract Period. The Contractor shall provide the Replacement Contractor with such assistance as it shall reasonably request.

B17.5 If TUPE applies to the transfer of the Services on termination of the Call-Off Contract, the Contractor shall indemnify and keep indemnified the Customer and the Crown (both for themselves and any Replacement Contractor) against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Customer or the Crown or any Replacement Contractor may suffer or incur as a result of or in connection with:

- (a) the provision of TUPE Information;
- (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Contract Period;
- (c) any failure by the Contractor or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Customer or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;
- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
- (e) any claim by any person who is transferred by the Contractor to the Customer and/or a Replacement Contractor whose name is not included in the list of Returning Employees.

- B17.6 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall notify the Customer and provide the Customer with up to date TUPE Information.
- B17.7 This clause B17 applies indefinitely.
- B17.8 The Contractor undertakes to the Customer that, during the 12 Months prior to the end of the Contract Period the Contractor shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):
- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Contractor and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
 - (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
 - (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
 - (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

C PAYMENT

C1 Price

- C1.1 In consideration of the Contractor's performance of its obligations under the Call-Off Contract, the Customer shall pay the Price in accordance with clause C2.

C2 Payment and VAT

- C2.1 The Contractor shall submit invoices to the Customer on the dates set out in the Order Form.
- C2.2 The Customer shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Call-Off Contract.
- C2.3 The Contractor shall add VAT to the Price at the prevailing rate as applicable and shall show the amount of VAT payable separately on all invoices as an extra charge. If the Contractor fails to show VAT on an invoice, the Customer will not, at any later date, be liable to pay the Contractor any additional VAT.
- C2.4 All Contractor invoices shall be expressed in sterling or such other currency as shall be permitted by the Customer in writing.

C2.5 Valid Invoices shall include:

- (a) the Contractor's full name, address and title of the Call-Off Contract;
- (b) (if Goods are included in the Specification) the name and quantity of the Goods delivered including batch numbers;
- (c) the Purchase Order Number

and, if requested by the Customer:

- (d) timesheets for Staff engaged in providing the Services signed and dated by the Customer's representative on the Premises on the day;
- (e) the name of the individuals to whom the timesheet relates and hourly rates for each;
- (f) identification of which individuals are Contractor's staff and which are Sub-Contractors;
- (g) the address of the Premises and the date on which work was undertaken;
- (h) the time spent working on the Premises by the individuals concerned;
- (i) details of the type of work undertaken by the individuals concerned;
- (j) details of plant or materials operated and on standby;
- (k) separate identification of time spent travelling and/or meal or rest breaks; and
- (l) where appropriate, details of journeys made and distances travelled.

C2.6 The Customer shall not pay Contractor time spent on meal or rest breaks and the Contractor shall ensure that all workers take adequate meal or rest breaks.

C2.7 The Customer shall not pay for plant which is not in use during a meal or rest break.

C2.8 Meal and rest breaks will include breaks both in or outside an individual's workplace along with any time taken in travelling to or from the break location and/or any facilities for cleaning/changing/washing in preparation for or return from a meal or rest break.

C2.9 Timesheets must include a minimum of 30 minutes break for each shift of 8 hours, a minimum of 45 minutes break in a shift of between 8 and 12 hours and a minimum of one hour break will be taken within a shift in excess of 12 hours and the Contractor's rates and the Price must include such breaks.

C2.10 The Customer shall not pay the Contractor's overhead costs unless specifically agreed in writing by the Customer and overhead costs shall include, without limitation; facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.

C2.11 If the Specification expressly provides that the Customer may be charged for plant which is on standby then in circumstances where plant was waiting to be transferred between Premises or where the Customer has instructed that the plant is retained on the Premises then a standby charge of 60% of agreed rates may be made in respect of such relevant periods if supported by timesheets.

- C2.12 The Customer shall pay only for the time spent by Staff working on the Premises.
- C2.13 The Customer shall not pay a stand-by rate if plant is on standby because no work was being carried out on the Premises at that time or no operator or other relevant staff were available (unless the standby is because the Contractor is awaiting licensing of the Premises on the Customer's instructions).
- C2.14 The Customer shall not pay for plant or equipment which is stood down during any notice period pursuant to clauses H1, H2 and/or H3 and the Contractor shall mitigate such costs as far as is reasonably possible, for example, by reutilising Staff, plant, materials and services on other contracts.
- C2.15 The Contractor may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C2.16 If the Customer pays the Contractor prior to the submission of a Valid Invoice this payment shall be on account of and deductible from the next payment to be made.
- C2.17 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Customer may recover this payment against future invoices raised or directly from the Contractor. All payments made by the Customer to the Contractor shall be on an interim basis pending final resolution of an account with the Call-Off Contractor in accordance with the terms of this clause C2.
- C2.18 The Customer shall pay all sums due to the Contractor within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:
Accounts-Payable.aph@sscl.gse.gov.uk or Shared Services Connected Limited, PO Box 790, Phoenix House, Celtic Springs Business Park, Newport, Gwent, NP10 8FZ.
- C2.19 Any late payment of undisputed invoices by the Customer will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank plc.
- C2.20 If the Contractor enters into a Sub-Contract with a supplier for the purpose of performing its obligations under the Call-Off Contract, it shall ensure that a provision is included in the Sub-Contract which requires payment to be made of all sums due from it to the Sub-Contractor within 30 days from the receipt of a valid invoice.
- C2.21 The Contractor shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Call-Off Contract. Any amounts due under this clause C2.21 shall be paid by the Contractor to the Customer not less than 5 Working Days before the date upon which the tax or other liability is payable by the Customer.
- C2.22 The Contractor shall not suspend the Services unless the Contractor is entitled to terminate the Call-Off Contract under clause H2.3 for failure to pay undisputed sums of money.
- C2.23 The Customer shall not pay an invoice which is not Valid Invoice.

C3 Recovery of Sums Due

- C3.1 If under the Call-Off Contract any sum of money is recoverable from or payable by the Contractor to the Customer (including any sum which the Contractor is liable to pay to the

Customer in respect of any breach of the Call-Off Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor from the Customer under the Call-Off Contract or under any other agreement with the Customer or the Crown.

- C3.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Contractor shall make all payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Contractor.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Call-Off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C4 Price During Extension of the Initial Contract Period

- C4.1 Subject to any terms set out in section 2 of the Order Form and clause F6 (Variation), the Price shall apply for the Initial Contract Period and until the end date of any extension or such earlier date of termination or partial termination of the Call-Off Contract in accordance with the Law or the Call-Off Contract.

D. STATUTORY OBLIGATIONS

D1 Prevention of Fraud and Bribery

- D1.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- D1.2 The Contractor shall not, during the Contract Period:
- (a) commit a Prohibited Act; and/or
 - (b) do or suffer anything to be done which would cause the Customer or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- D1.3 The Contractor shall, during the Contract Period:
- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and

- (b) keep appropriate records of its compliance with its obligations under clause D1.3(a) and make such records available to the Customer on request.

D1.4 The Contractor shall immediately notify the Customer in writing if it becomes aware of any breach of clauses D1.1 and/or D1.2, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Call-Off Contract or otherwise suspects that any person directly or indirectly connected with the Call-Off Contract has committed or attempted to commit a Prohibited Act.

D1.5 If the Contractor notifies the Customer pursuant to clause D1.4, the Contractor shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to Audit any books, records and/or any other relevant documentation.

D1.6 If the Contractor is in Default under clauses D1.1 and/or D1.2, the Customer may by notice:

- (a) require the Contractor to remove from performance of the Call-Off Contract any Staff whose acts or omissions have caused the Default; or
- (b) immediately terminate the Call-Off Contract.

D1.7 Any notice served by the Customer under clause D1.6 shall specify the nature of the Prohibited Act, the identity of the party who the Customer believes has committed the Prohibited Act and the action that the Customer has taken (including, where relevant, the date on which the Call-Off Contract shall terminate).

D2 Discrimination

D2.1 The Contractor shall:

- (a) perform its obligations under the Call-Off Contract in accordance with:
 - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
 - ii) the Customer's equality and diversity policy as given to the Contractor from time to time;
 - iii) any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on the Customer at any time under applicable equality Law; and

- (b) take all necessary steps and inform the Customer of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

D3 Rights of Third Parties

D3.1 A person who is not a Party shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause D3 does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D4 Environmental Requirements

D4.1 The Contractor shall in the performance of the Call-Off Contract have due regard to the Customer's environmental, sustainable and ethical procurement policies ("**Environmental Policies**") which require the Customer through its procurement and management of suppliers:

- (a) conserve energy, water, wood, paper and other resources and reduce waste;
- (b) phase out the use of ozone depleting substances;
- (c) minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment;
- (d) minimise the use of products harmful to health and the environment such as hazardous substances and solvents, replacing them with more benign substances where feasible and, where such substances are necessary, to ensure that they are stored in properly labelled containers, used and disposed of in compliance with legal and regulatory requirements and any instructions from the Customer;
- (e) reduce fuel emissions wherever possible;
- (f) maximise the use of recovered materials and, if recycled materials are not suitable or not readily available, to maximise the use of materials taken from renewable sources; and
- (g) promote the design of products that are capable of reuse or remanufacture or easily separable into recyclable parts consisting of one material (e.g. steel, plastic, textile).

D4.2 The Contractor shall ensure that any equipment and materials used in the provision of the Services do not contain:

- (a) ozone depleting substances such as hydrochlorofluorocarbons (HCFCs), halons, carbon tetrachloride, 111 trichloroethane, bromochloromethane or any other damaging substances; and/or
- (b) HFCs and other gaseous and non-gaseous substances with a high global warming potential;

unless given written permission by the Customer to do so.

D4.3 The Contractor shall conserve energy and water; reduce carbon emissions and other greenhouse gases; minimise the use of substances damaging or hazardous to health and

the environment and reduce waste by, for example, using resources more efficiently and reusing, recycling and composting and respecting biodiversity.

- D4.4 If required by the Customer the Contractor shall provide the Customer with information about its compliance with its obligations under clause D4.3.
- D4.5 The Contractor shall ensure that its Staff are aware of the Customer's Environmental Policies.
- D4.6 The Contractor shall comply with the minimum environmental mandatory standards in the "Government Buying Standards" and in addition where required by the Customer, comply with any relevant "Best Practice" and "Class Leader" standards in relation to any goods on that list which are supplied to the Customer by or on behalf of the Contractor under the Call-Off Contract.
- D4.7 The Contractor shall:
- (a) identify any risks arising from climate change and variable weather such as higher temperatures, droughts, flooding, sea and river level rises, coastal and riparian erosion, water scarcity, and loss of water quality which may disrupt and/or affect the supply of the Services; and
 - (b) if such risks have been identified, enhance the resilience of its organisation to enable it to adapt and deal with the effects of such extreme events, including by having the necessary awareness-raising, evaluation, preventive, preparatory, recovery measures and support systems in place in order to minimise any disruption to the supply of the Services.

D5 Health and Safety

- D5.1 The Contractor shall perform its obligations under the Call-Off Contract in accordance with:
- (a) all applicable Law regarding health and safety; and
 - (b) the Customer's health and safety policy while at the Customer's Premises.
- D5.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Customer's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Call-Off Contract. The Contractor shall instruct Staff to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

E PROTECTION OF INFORMATION

E1 Customer Data

- E1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- E1.2 The Contractor shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Contractor of its obligations under this Call-Off Contract or as otherwise expressly authorised in writing by the Customer.

- E1.3 To the extent that Customer Data is held and/or Processed by the Contractor, the Contractor shall supply that Customer Data to the Customer as requested by the Customer in the format specified in the Specification.
- E1.4 The Contractor shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- E1.5 The Contractor shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored securely off-site. The Contractor shall ensure that such back-ups are made available to the Customer immediately upon request.
- E1.6 The Contractor shall ensure that any system on which the Contractor holds any Customer Data, including back-up data, is a secure system that complies with the HMG Security Policy Framework.
- E1.7 If the Customer Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Customer may:
- E1.7.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Customer Data and the Contractor shall do so promptly; and/or
- E1.7.2 itself restore or procure the restoration of Customer Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- E1.8 If at any time the Contractor suspects or has reason to believe that Customer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Customer immediately and inform the Customer of the remedial action the Contractor proposes to take.

E2 Data Protection

- E2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation:
- E2.1.1 the Customer is the Controller and the Contractor is the Processor of the Personal Data specified in Schedule 5 and/or as more particularly specified in an Order Form; and
- E2.1.2 the Parties may provide each other with Personal Data relating to persons employed by them and their agents, suppliers and Sub-Contractors for purposes of administering the Call-Off Contract and each Party will be an independent Controller of such Personal Data (because the Parties each, independently of each other, determine the means and purposes of processing such Personal Data).
- E2.2 Both Parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Call-Off Contract.
- E2.3 Each Party will, prior to providing Personal Data of which it is the Controller to the other, be responsible for ensuring the Data Subject has received adequate privacy information in accordance with GDPR Article 13 to enable the receiving Party to process the Personal Data as permitted under clause E2.4 or E2.5 (as applicable).
- E2.4. The only processing of Personal Data specified in E2.1.1 that the Contractor is authorised to do is listed in Schedule 5 (and/or as more particularly specified in an Order Form) by the Customer and may not be determined by the Contractor. The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

- E2.5 The only processing of Personal Data specified in clause E2.1.2 that the Parties are authorised to do is processing for purposes administration of the Call-Off Contract.
- E2.6 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- E2.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - E2.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - E2.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - E2.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- E2.7 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract:
- E2.7.1 process that Personal Data only in accordance with Schedule 5 (and/or as more particularly specified in an Order Form) unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - E2.7.2 ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Customer may reasonably reject (but failure to reject shall not amount to approval by the Customer of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - E2.7.3 ensure that:
 - (i) the Staff do not process Personal Data except in accordance with this Call-Off Contract (and in particular Schedule 5 (and/or as more particularly specified in an Order Form));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Contractor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - E2.7.4 not transfer Personal Data outside of the European Union unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

- (i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Customer;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

- E2.7.5 at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call-Off Contract unless the Contractor is required by Law to retain the Personal Data.
- E2.8 Subject to clause E2.9 the Contractor shall notify the Customer immediately if, in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract, it:
- E2.8.1 receives a Data Subject Request (or purported Data Subject Request);
 - E2.8.2 receives a request to rectify, block or erase any Personal Data;
 - E2.8.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - E2.8.4 receives any communication from the Information Commissioner or any other regulatory authority;
 - E2.8.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - E2.8.6 becomes aware of a Data Loss Event.
- E2.9 The Contractor's obligation to notify under clause E2.8 shall include the provision of further information to the Customer in phases, as details become available.
- E2.10 Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract and any complaint, communication or request made under Clause E2.8 (and insofar as possible within the time scales reasonably required by the Customer) including by promptly providing:
- E2.10.1 the Customer with full details and copies of the complaint, communication or request;
 - E2.10.2 such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - E2.10.3 the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - E2.10.4 assistance as requested by the Customer following any Data Loss Event;
 - E2.10.5 assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- E2.11 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- E2.11.1 the Customer determines that the processing is not occasional;
- E2.11.2 the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
- E2.11.3 the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E2.12 The Contractor shall allow for audits of its Personal Data processing activity by the Customer or the Customer's designated auditor.
- E2.13 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- E2.14 Before allowing any Sub-processor to process any Personal Data related to this Call-Off Contract, the Contractor must:
 - E2.14.1 notify the Customer in writing of the intended Sub-processor and processing;
 - E2.14.2 obtain the written consent of the Customer;
 - E2.14.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and
 - E2.14.4 provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- E2.15 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- E2.16 The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Call-Off Contract).
- E2.17 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- E2.18 This clause E2 shall apply during the Contract Period and indefinitely after its expiry.

E3 Official Secrets Acts and Finance Act

- E3.1 The Contractor shall comply with the provisions of:
 - (a) the Official Secrets Acts 1911 to 1989; and
 - (b) section 182 of the Finance Act 1989.

E4 Confidential Information

- E4.1 Except to the extent set out in this clause E4 or if disclosure or publication is expressly permitted elsewhere in the Call-Off Contract each Party shall treat all Confidential

Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Call-Off Contract.

- E4.2 The Contractor hereby gives its consent for the Customer to publish the whole Call-Off Contract (but with any information which is Confidential Information belonging to the Customer redacted) including from time to time agreed changes to the Call-Off Contract, to the general public.
- E4.3 If required by the Customer, the Contractor shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Call-Off Contract. The Contractor shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.
- E4.4 If requested by the Customer, the Contractor shall give the Customer a copy of the list and, subsequently upon request by the Customer, copies of such of the listed non-disclosure agreements as required by the Customer. The Contractor shall ensure that its Staff, professional advisors and consultants are aware of the Contractor's confidentiality obligations under the Call-Off Contract.
- E4.5 The Contractor may only disclose the Customer's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E4.6 The Contractor shall not, and shall procure that the Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of this Call-Off Contract.
- E4.7 Clause E4.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
 - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - (c) such information was obtained from a third party without obligation of confidentiality;
 - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Call-Off Contract; or
 - (e) it is independently developed without access to the other Party's Confidential Information.
- E4.8 Nothing in clause E4.1 shall prevent the Customer disclosing any Confidential Information obtained from the Contractor:
- (a) for the purpose of the examination and certification of the Customer's accounts;
 - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;

- (c) to any Crown Body or any Contracting Customer and the Contractor hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority;
- (d) to any consultant, contractor or other person engaged by the Customer

provided that in disclosing information under clauses E4.8 (c) and (d) the Customer discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

- E4.9 Nothing in clauses E4.1 to E4.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Call-Off Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- E4.10 The Customer shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause E4.6 is made aware of the Customer's obligations of confidentiality.
- E4.11 If the Contractor does not comply with clauses E4.1 to E4.6 the Customer may terminate the Call-Off Contract immediately on notice to the Contractor.
- E4.12 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Contractor shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- E4.13 The Contractor will immediately notify the Customer of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the Customer in any investigation as a result of any breach of security in relation to Confidential Information or data.
- E4.14 The Contractor shall, at its own expense, alter any security systems at any time during the Contract Period at the Customer's request if the Customer reasonably believes the Contractor has failed to comply with clause E4.12.

E5 Freedom of Information

- E5.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the EIR.
- E5.2 The Contractor shall transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt:
 - (a) give the Customer a copy of all Information in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may specify) of the Customer's request;

- (b) provide all necessary assistance as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and EIR;
- (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Customer.

E5.3 The Customer shall determine in its absolute discretion and notwithstanding any other provision in the Call-Off Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

E6 Publicity, Media and Official Enquiries

E6.1 Without prejudice to the Customer's obligations under the FOIA, the EIR or any obligations under the Public Contracts Regulations 2006, or any policy requirements as to transparency, neither Party shall make any press announcement or publicise the Call-Off Contract or any part thereof in any way, except with the written consent of the other Party.

E6.2 The Contractor shall use its best endeavours to ensure that its Staff, professional advisors and consultants comply with clause E6.1.

E7 Security

E7.1 The Customer shall be responsible for maintaining the security of the Customer's Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Customer while on the Customer's Premises, and shall ensure that all Staff comply with such requirements.

E7.2 The Customer shall give the Contractor upon request copies of its written security procedures.

E7.3 The Contractor shall, as an enduring obligation during the Contract Period, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

E7.4 Notwithstanding clause E7.3, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Customer Data, assist each other to mitigate any losses and to restore the provision of Services to their desired operating efficiency.

E7.5 Any cost arising out of the actions of the Parties taken in compliance with clause E7.4 shall be borne by the Parties as follows:

- (a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Customer Data (whilst the Customer Data was under the control of the Contractor); and
- (b) by the Customer if the Malicious Software originates from the Customer Software or Customer Data (whilst the Customer Data was under the control of the Customer).

E8 Intellectual Property Rights

- E8.1 All Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:
- (a) furnished to or made available to the Contractor by or on behalf of the Customer;
 - (b) prepared by or for the Contractor on behalf of the Customer for use, or intended use, in relation to the performance by the Contractor of its obligations under the Call-Off Contract; or
 - (c) the result of any work done by the Contractor, the Staff or any Sub-Contractor in relation to the provision of the Services (together with clauses E8.1 (a) and (b) the **"IP Materials"**)

shall vest in the Customer and the Contractor shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Contractor of its obligations under the Call-Off Contract.

- E8.2 The Contractor hereby assigns to the Customer, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause E8.1(b) and (c). This assignment shall take effect on the date of the Call-Off Contract or (in the case of rights arising after the date of the Call-Off Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor shall execute all documentation and do all acts as are necessary to execute this assignment.
- E8.3 The Contractor shall waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Call-Off Contract or the performance of its obligations under the Call-Off Contract.
- E8.4 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Customer a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Customer an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Customer to sub-license, transfer, novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying goods and/or services to the Customer.
- E8.5 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services and the Contractor shall, during and after the Contract Period, indemnify and keep indemnified the Customer and the Crown from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Customer or the Crown may suffer or incur as a result of or in connection with any breach of this clause E8.5, except to the extent that any such claim results directly from:
- (a) items or materials based upon designs supplied by the Customer; or
 - (b) the use of data supplied by the Customer which is not required to be verified by the Contractor under any provision of the Call-Off Contract.

- E8.6 The Customer shall notify the Contractor in writing of any claim or demand brought against the Customer for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor to the Customer.
- E8.7 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Customer or the Contractor) arising from the performance of the Contractor's obligations under the Call-Off Contract ("**Third Party IP Claim**"), provided that the Contractor shall at all times:
- (a) consult the Customer on all material issues which arise during the conduct of such litigation and negotiations;
 - (b) take due and proper account of the interests of the Customer; and
 - (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).
- E8.8 The Customer shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Contractor shall indemnify the Customer for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not be required to indemnify the Customer under this clause E8.8 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.5(a) or (b).
- E8.9 The Customer shall not, without the Contractor's consent, make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.
- E8.10 If any Third Party IP Claim is made or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Customer and, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Customer under clauses E8.4 and G2.1(g)) use its best endeavours to:
- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
 - (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Customer
- and if the Contractor is unable to comply with clauses E8.10(a) or (b) within 20 Working Days of receipt by the Customer of the Contractor's notification the Customer may terminate the Call-Off Contract immediately by notice to the Contractor.
- E8.11 The Contractor grants to the Customer a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Customer reasonably requires in order to exercise its rights under, and receive the benefit of, the Call-Off Contract (including, without limitation, the Services).

E9 Audit

- E9.1 The Contractor shall keep and maintain until 6 years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Call-Off Contract including the Services supplied under it, all expenditure reimbursed by the Customer, and all payments made by the Customer. The Contractor shall on request afford the Customer or the Customer's representatives such access to those records and processes as may be requested by the Customer in connection with the Call-Off Contract.
- E9.2 The Contractor agrees to make available to the Customer, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.
- E9.3 The Contractor shall permit duly authorised representatives of the Customer and/or the National Audit Office to examine the Contractor's records and documents relating to the Call-Off Contract and to provide such copies and oral or written explanations as may reasonably be required.
- E9.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Customer and for carrying out examinations into the economy, efficiency and effectiveness with which the Customer has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

E10 Tax Compliance

- E10.1 If, during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- (a) notify the Customer in writing of such fact within 5 Working Days of its occurrence; and
 - (b) promptly give the Customer:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.
- E10.2 If the Contractor or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Call-Off Contract, the Contractor shall:
- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
 - (b) indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Contractor or any Staff.

F. CONTROL OF THE CONTRACT

F1 Failure to meet Requirements

- F1.1 If the Customer informs the Contractor in writing that the Customer reasonably believes that any part of the Services do not meet the requirements of the Call-Off Contract or differs in any way from those requirements, and this is not as a result of a default by the Customer, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Call-Off Contract within such reasonable time as may be specified by the Customer.
- F1.2 The Customer may by notice to the Contractor reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Customer of such Goods. If the Customer rejects any of the Goods pursuant to this clause the Customer may (without prejudice to its other rights and remedies) either:
- (a) have such Goods promptly, free of charge and in any event within 5 Working Days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or
 - (b) treat the Call-Off Contract as discharged by the Contractor's breach and obtain a refund (if payment for the Goods has already been made) from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Customer in obtaining other goods in replacement.
- F1.3 The Customer will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause F1.2.
- F1.4 The issue by the Customer of a receipt note for delivery of the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Customer's acceptance of them.
- F1.5 The Contractor hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is specified, for a period of 18 months from the date of delivery. If the Customer shall within such period or within 25 Working Days thereafter give notice to the Contractor of any defect in any of the Goods as may have arisen during such period under proper and normal use, the Contractor shall (without prejudice to any other rights and remedies which the Customer may have) promptly remedy such defects (whether by repair or replacement as the Customer shall elect) free of charge.
- F1.6 Any Goods rejected or returned by the Customer as described in clause F1.2 shall be returned to the Call-Off Contractor at the Contractor's risk and expense.

F2 Monitoring of Contract Performance

- F2.1 The Contractor shall immediately inform the Customer if any of the Services are not being or are unable to be [performed/delivered], the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F2.2 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter (each being a "**Review Date**"), the Customer shall carry out a review of the performance of the Contractor ("**Checkpoint Review**"). Without prejudice to the generality of the foregoing, the Customer may in respect of the period

under review consider such items as (but not limited to): the Contractor's delivery of the Services; the Contractor's contribution to innovation in the Customer; whether the Services provide the Customer with best value for money; consideration of any changes which may need to be made to the Services; a review of future requirements in relation to the Services and progress against key milestones.

- F2.3 The Contractor shall provide at its own cost any assistance reasonably required by the Customer to perform such Checkpoint Review including the provision of data and information.
- F2.4 The Customer may produce a report (a "**Checkpoint Review Report**") of the results of each Checkpoint Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Customer's expectations and the Contractor's obligations under this Call-Off Contract.
- F2.5 The Customer shall give the Contractor a copy of the Checkpoint Review Report (if applicable). The Customer shall consider any Contractor comments and may produce a revised Checkpoint Review Report.
- F2.6 The Contractor shall, within 10 Working Days of receipt of the Checkpoint Review Report (revised as appropriate) provide the Customer with a plan to address resolution of any shortcomings and implementation of improvements identified by the Checkpoint Review Report.
- F2.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Contractor's failure to meet its obligations under this Call-Off Contract identified by the Checkpoint Review Report, or those which result from the Contractor's failure to meet the Customer's expectations notified to the Contractor or of which the Contractor ought reasonably to have been aware) shall be implemented at no extra charge to the Customer.

F3 Remedies for inadequate performance

- F3.1 If the Customer reasonably believes the Contractor has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:
- (a) without terminating the Call-Off Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor has demonstrated to the Customer's reasonable satisfaction that the Contractor will be able to supply the Services in accordance with the Specification;
 - (b) without terminating the whole of the Call-Off Contract, terminate the Call-Off Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
 - (c) withhold or reduce payments to the Contractor in such amount as the Customer reasonably deems appropriate in each particular case; and/or
 - (a) terminate the Call-Off Contract in accordance with clause H2.
- F3.2 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Customer may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Customer

or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services.

- F3.3 If the Customer reasonably believes the Contractor has failed to supply all or any part of the Services in accordance with the Call-Off Contract, professional or industry practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Customer may give the Contractor notice specifying the way in which its performance falls short of the requirements of the Call-Off Contract or is otherwise unsatisfactory.
- F3.4 If the Contractor has been notified of a failure in accordance with clause F3.3 the Customer may:
- (a) direct the Contractor to identify and remedy the failure within such time as may be specified by the Customer and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Customer within the specified timescale; and/or
 - (b) withhold or reduce payments to the Contractor in such amount as the Customer deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Customer.
- F3.5 If the Contractor has been notified of a failure in accordance with clause F3.3, it shall:
- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Customer and to prevent such failure from recurring; and
 - (b) immediately give the Customer such information as the Customer may request regarding what measures are being taken to comply with the obligations in this clause F3.5 and the progress of those measures until resolved to the satisfaction of the Customer.
- F3.6 If, having been notified of any failure, the Contractor fails to remedy it in accordance with clause F3.5 within the time specified by the Customer, the Customer may treat the continuing failure as a Material Breach and may terminate the Call-Off Contract immediately on notice to the Contractor.

F4 Transfer and Sub-Contracting

- F4.1 Except where clauses F4.5 and F4.6 both apply, the Contractor shall not transfer, charge, assign, sub-contract or in any other way dispose of the Call-Off Contract or any part of it without Approval. All such documents shall be evidenced in writing and shown to the Customer on request. Sub-contracting any part of the Call-Off Contract shall not relieve the Contractor of any of its obligations or duties under the Call-Off Contract.
- F4.2 The Contractor shall be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Contractor shall provide each Sub-Contractor with a copy of the Call-Off Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Call-Off Contract.
- F4.3 The Contractor shall ensure that its Sub-Contractors and suppliers retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Customer on request in accordance with the provisions of clause E9 (Audit). If any Sub-Contractor or supplier does not allow the Customer access to the records then the Customer shall have no obligation to pay any claim or invoice made by

the Contractor on the basis of such documents or work carried out by the Sub-Contractor or supplier.

- F4.4 If the Customer has consented to the placing of Sub-Contracts, copies of each Sub-Contract shall, at the request of the Customer, be sent by the Contractor to the Customer immediately.
- F4.5 Notwithstanding clause F4.1, the Contractor may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Contractor (including any interest which the Customer incurs under clause C2 (Payment and VAT)). Any assignment under this clause F4.5 shall be subject to:
- (a) reduction of any sums in respect of which the Customer exercises its right of recovery under clause C3 (Recovery of Sums Due);
 - (b) all related rights of the Customer under the Call-Off Contract in relation to the recovery of sums due but unpaid; and
 - (c) the Customer receiving notification under both clauses F4.6 and F4.7.
- F4.6 If the Contractor assigns the right to receive the Price under clause F4.5, the Contractor or the Assignee shall notify the Customer in writing of the assignment and the date upon which the assignment becomes effective.
- F4.7 The Contractor shall ensure that the Assignee notifies the Customer of the Assignee’s contact information and bank account details to which the Customer shall make payment.
- F4.8 The provisions of clause C2 shall continue to apply in all other respects after the assignment and shall not be amended without Approval.
- F4.9 Subject to clause F4.10, the Customer may assign, novate or otherwise dispose of its rights and obligations under the Call-Off Contract or any part thereof to:
- (a) any Contracting Authority;
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
 - (c) any private sector body which substantially performs the functions of the Customer
- provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor’s obligations under the Call-Off Contract.
- F4.10 Any change in the legal status of the Customer such that it ceases to be a Contracting Authority shall not, subject to clause F4.11, affect the validity of the Call-Off Contract and the Call-Off Contract shall bind and inure to the benefit of any successor body to the Customer.
- F4.11 If the rights and obligations under the Call-Off Contract are assigned, novated or otherwise disposed of pursuant to clause F4.9 to a body which is not a Contracting Authority or if there is a change in the legal status of the Customer such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the “**Transferee**”):

- (a) the rights of termination of the Customer in clauses H1 and H2 shall be available to the Contractor in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Call-Off Contract or any part thereof with the prior consent in writing of the Contractor.

F4.12 The Customer may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Call-Off Contract. In such circumstances the Customer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Call-Off Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F4.13 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Call-Off Contract.

F5 Waiver

F5.1 The failure of either Party to insist upon strict performance of any provision of the Call-Off Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Call-Off Contract.

F5.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A4 (Notices and Communications).

F5.3 A waiver of any right or remedy arising from a breach of the Call-Off Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Call-Off Contract.

F6 Variation

F6.1 Subject to the provisions of this clause F6, the Customer may request a Variation provided that such Variation does not amount to a material change.

F6.2 The Customer may request a Variation by notifying the Contractor in writing of the Variation and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement the Variation within a reasonable time limit specified by the Customer. If the Contractor accepts the Variation it shall confirm it in writing.

F6.3 If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Customer may:

- (a) allow the Contractor to fulfil its obligations under the Call-Off Contract without the Variation to the Specification; or
- (b) terminate the Call-Off Contract immediately except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution

to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).

F6.4 Any Variation will not take effect unless recorded in a CCN and approved in writing by the Customer.

F6.5 The provisions of clause F6.4 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Variation in order to address the emergency. In an emergency, Variations may be approved by a different representative of the Customer. However, the Authorised Representative shall have the right to review such a Variation and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Variation.

F7 Severability

F7.1 If any provision of the Call-Off Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Call-Off Contract shall continue in full force and effect as if the Call-Off Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F8 Remedies Cumulative

F8.1 Except as expressly provided in the Call-Off Contract all remedies available to either Party for breach of the Call-Off Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F9 Entire Agreement

F9.1 The Call-Off Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Call-Off Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

F10 Counterparts

F10.1 The Call-Off Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

G LIABILITIES

G1 Liability, Indemnity and Insurance

G1.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

- (d) any breach of clause D1; or
 - (e) any liability to the extent it cannot be limited or excluded by Law.
- G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Customer and keep the Customer indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Call-Off Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.
- G1.3 Subject to clause G1.1 the Contractor's aggregate liability in respect of the Call-Off Contract shall not exceed the sum set out in section 5 of the Order Form.
- G1.4 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Call-Off Contract.
- G1.5 The Customer may recover from the Contractor the following losses incurred by the Customer to the extent they arise as a result of a Default by the Contractor:
- (a) any additional operational and/or administrative costs and expenses incurred by the Customer, including costs relating to time spent by or on behalf of the Customer in dealing with the consequences of the Default;
 - (b) any wasted expenditure or charges;
 - (c) the additional costs of procuring a Replacement Contractor for the remainder of the Contract Period and or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under the Call-Off Contract;
 - (d) any compensation or interest paid to a third party by the Customer; and
 - (e) any fine or penalty incurred by the Customer pursuant to Law and any costs incurred by the Customer in defending any proceedings which result in such fine or penalty.
- G1.6 Subject to clauses G1.1 and G1.5, neither Party shall be liable to the other for any:
- (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
 - (b) indirect, special or consequential loss.
- G1.7 Unless otherwise specified by the Customer, the Contractor shall, with effect from the Commencement Date for such period as necessary to enable the Contractor to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Call-Off Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any

financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 years following the end of the Call-Off Contract.

- G1.8 The Contractor shall hold employer's liability insurance in respect of Staff and such insurance shall be in accordance with any legal requirement from time to time in force.
- G1.9 The Contractor shall give the Customer, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.10 If the Contractor does not give effect to and maintain the insurances required by the provisions of the Call-Off Contract, the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Call-Off Contract.
- G1.12 The Contractor shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Contractor, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Contractor is an insured, a co-insured or additional insured person.

G2 Warranties and Representations

- G2.1 The Contractor warrants and represents on the Commencement Date and for the Contract Period that:
 - (a) it has full capacity and authority and all necessary consents to enter into and perform the Call-Off Contract and that the Call-Off Contract is executed by a duly authorised representative of the Contractor;
 - (b) in entering the Call-Off Contract it has not committed any fraud;
 - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Contractor to the Customer remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Customer prior to execution of the Call-Off Contract and in addition, that it will advise the Customer of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
 - (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Call-Off Contract;
 - (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Call-Off Contract;
 - (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;

- (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Call-Off Contract;
- (h) any person engaged by the Contractor shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence where the Contractor has not been in existence for 3 years) prior to the date of the Call-Off Contract:
 - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Call-Off Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Call-Off Contract; and
- (k) it has notified the Customer in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G3 Force Majeure

- G3.1 Subject to the remaining provisions of this clause G3, a Party may claim relief under this clause G3 from liability for failure to meet its obligations under the Call-Off Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under the Call-Off Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.
- G3.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- G3.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this clause G3 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Contractor has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent supplier of Services similar to the Services, operating to the standards required by the Call-Off Contract.

- G3.4 Subject to clause G3.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- G3.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- G3.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Call-Off Contract, then during the continuance of the Force Majeure Event:
 - i) the other Party shall not be entitled to exercise its rights to terminate the Call-Off Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
 - ii) neither Party shall be liable for any Default arising as a result of such failure;
 - (b) the Contractor fails to perform its obligations in accordance with the Call-Off Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the [Services (or part of the Services)/Goods] continue to be performed in accordance with the terms of the Call-Off Contract during the occurrence of the Force Majeure Event.
- G3.7 The Affected Party shall notify the other Party 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 the Call-Off Contract.
- G3.8 Relief from liability for the Affected Party under this clause G3 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Call-Off Contract and shall not be dependent on the serving of notice under clause G3.7.

H DEFAULT, DISRUPTION AND TERMINATION

H1 Termination on Insolvency and Change of Control

- H1.1 The Customer may terminate the Call-Off Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a company and in respect of the Contractor:
- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in H1.1(a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Customer may terminate the Call-Off Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is an individual and:

- (a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors;
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy;
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;
- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses H1.2(a) to (g) occurs under the law of any other jurisdiction.

H1.3 The Contractor shall notify the Customer immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including where the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 (“**Change of Control**”). The Customer may terminate the Call-Off Contract with immediate effect by notice and without compensation to the Contractor within 6 Months of:

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

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

H1.4 The Customer may terminate the Call-Off Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) it is for any reason dissolved; or
- (c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (d) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (e) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (f) any of the following occurs in relation to any of its partners:
 - (i) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, his creditors;
 - (ii) a petition is presented for his bankruptcy; or
 - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;
- (g) any event similar to those listed in clauses H1.4(a) to (f) occurs under the law of any other jurisdiction .

H1.5 The Customer may terminate the Call-Off Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;

- (b) it is for any reason dissolved;
- (c) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given within Part II of the Insolvency Act 1986;
- (d) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;
- (e) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;
- (f) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (h) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (i) any event similar to those listed in clauses H1.5 (a) to (h) occurs under the law of any other jurisdiction.

H1.6 References to the Insolvency Act 1986 in clause H1.5(a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

H2 Termination on Default

H2.1 The Customer may terminate the Call-Off Contract with immediate effect by notice if the Contractor commits a Default and:

- (a) the Contractor has not remedied the Default to the satisfaction of the Customer within 25 Working Days or such other period as may be specified by the Customer, after issue of a notice specifying the Default and requesting it to be remedied;
- (b) the Default is not, in the opinion of the Customer, capable of remedy; or
- (c) the Default is a Material Breach.

H2.2 If, through any Default of the Contractor, data transmitted or processed in connection with the Call-Off Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Customer in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

H2.3 If the Customer fails to pay the Contractor undisputed sums of money when due, the Contractor shall give notice to the Customer of its failure to pay. If the Customer fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Contractor may terminate the Call-Off Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under clause C3.1 (Recovery of Sums Due) or to a Force Majeure Event.

H3 Termination on Notice

H3.1 The Customer may terminate the Call-Off Contract at any time by giving the Contractor the number of days' notice set out in section 6 of the Order Form.

H4 Consequences of Expiry or Termination

H4.1 If the Customer terminates the Call-Off Contract under clause H2 and makes other arrangements for the supply of the Services the Customer may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period.

H4.2 If Call-Off Contract is terminated under clause H2 the Customer shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Call-Off Contract but where the payment has yet to be made by the Customer), until the Customer has established the final cost of making the other arrangements envisaged under this clause.

H4.2 If the Customer terminates the Call-Off Contract under clause H3 the Customer shall make no further payments to the Contractor except for Services supplied by the Contractor prior to termination and in accordance with the Call-Off Contract but where the payment has yet to be made by the Customer.

H4.3 Save as otherwise expressly provided in the Call-Off Contract:

- (a) termination or expiry of the Call-Off Contract shall be without prejudice to any rights, remedies or obligations accrued under the Call-Off Contract prior to termination or expiration and nothing in the Call-Off Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Call-Off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Data Protection Act Compliance), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), F9 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), H4 (Consequences of Expiry or Termination), H6 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

H5 Disruption

H5.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Call-Off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.

H5.2 The Contractor shall immediately inform the Customer of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Call-Off Contract.

H5.3 If there is industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Call-Off Contract.

H5.4 If the Contractor's proposals referred to in clause H5.3 are considered insufficient or unacceptable by the Customer acting reasonably, then the Call-Off Contract may be terminated with immediate effect by the Customer by notice.

H5.5 If the Contractor is unable to deliver the Services owing to disruption of the Customer's normal business, the Contractor may request a reasonable allowance of time, and, in addition, the Customer will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

H6 Recovery upon Termination

H6.1 On termination of the Call-Off Contract for any reason, the Contractor shall at its cost:

- (a) immediately return to the Customer all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Goods and Services;
- (b) immediately deliver to the Customer all Property (including materials, documents, information and access keys) provided to the Contractor in good working order;
- (c) immediately vacate any Customer Premises occupied by the Contractor;
- (d) assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress; and
- (e) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Customer and/or the Replacement Contractor to conduct due diligence.

H6.2 If the Contractor does not comply with clauses H6.1(a) and (b), the Customer may recover possession thereof and the Contractor grants a licence to the Customer or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or Sub-Contractors where any such items may be held.

H7 Retendering and Handover

H7.1 Within 21 days of being requested by the Customer, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Customer to issue tender documents for the future provision of the Services.

H7.2 The Customer shall take all necessary precautions to ensure that the information referred to in clause H7.1 is given only to potential suppliers who have qualified to tender for the future provision of the Services.

H7.3 The Customer shall require that all potential suppliers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Customer; and that they shall not use it for any other purpose.

H7.4 The Contractor shall indemnify the Customer against any claim made against the Customer at any time by any person in respect of any liability incurred by the Customer

arising from any deficiency or inaccuracy in information which the Contractor is required to provide under clause H7.1.

- H7.5 The Contractor shall allow access to the Premises in the presence of the Authorised Representative, to any person representing any potential supplier whom the Customer has selected to tender for the future provision of the Services.
- H7.6 If access is required to the Contractor's Premises for the purposes of clause H7.5, the Customer shall give the Contractor 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Contractor's security procedures, subject to such compliance not being in conflict with the objectives of the visit.
- H7.7 The Contractor shall co-operate fully with the Customer during any handover at the end of the Call-Off Contract. This co-operation shall include allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- H7.8 Within 10 Working Days of being requested by the Customer, the Contractor shall transfer to the Customer, or any person designated by the Customer, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Customer.

H8 Exit Management

- H8.1 Upon termination the Contractor shall render reasonable assistance to the Customer to the extent necessary to effect an orderly assumption by a Replacement Contractor in accordance with the following procedure set out in clause H9.

H9 Exit Procedures

- H9.1 Where the Customer requires a continuation of all or any of the Services on expiry or termination of the Call-Off Contract, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the Customer and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- H9.2 The following commercial approach shall apply to the transfer of the Services if the Contractor:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
 - (b) reasonably incurs additional costs, the Parties shall agree a Variation to the Price based on the Contractor's rates either set out in Schedule 3 or forming the basis for the Price.
- H9.3 When requested to do so by the Customer, the Contractor shall deliver to the Customer details of all licences for software used in the provision of the Services including the software licence agreements.

H9.4 Within one Month of receiving the software licence information described above, the Customer shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the Customer a plan for licence transfer.

H10 Knowledge Retention

H10.1 The Contractor shall co-operate fully with the Customer in order to enable an efficient and detailed knowledge transfer from the Contractor to the Customer on the completion or earlier termination of the Call-Off Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor shall provide the Customer free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Customer. The Contractor shall comply with the Customer's request for information no later than 15 Working Days from the date that that request was made.

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

I1.1 Subject to the provisions of clause I2 the Call-Off Contract shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not limit the right of the Customer to take proceedings against the Contractor in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

I2 Dispute Resolution

I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Call-Off Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Contractor and the commercial director of the Customer.

I2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause I2.5 unless: (a) the Customer considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

I2.4 The obligations of the Parties under the Call-Off Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of the Call-Off Contract at all times.

I2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

- (a) a neutral adviser or mediator (the “**Mediator**”) shall 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 or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
- (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Call-Off Contract without the prior written consent of both Parties; and
- (f) if the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause I2.6.

12.6 Subject to clause I2.2, the Parties shall not institute court proceedings until the procedures set out in clauses I2.1 and I2.3 have been completed save that:

- (a) The Customer may at any time before court proceedings are commenced, serve a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause I2.7;
- (b) if the Contractor intends to commence court proceedings, it shall serve notice on the Customer of its intentions and the Customer shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause I2.7; and
- (c) the Contractor may request by notice to the Customer that any dispute be referred and resolved by arbitration in accordance with clause I2.7, to which the Customer may consent as it sees fit.

12.7 If any arbitration proceedings are commenced pursuant to clause I2.6,

- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the Customer shall give a notice of arbitration to the Contractor (the “**Arbitration Notice**”) stating:
 - (i) that the dispute is referred to arbitration; and

- (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with I2.7(b) shall be applied and are deemed to be incorporated by reference to the Call-Off Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Customer under clause I2.7(a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language;
and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

SCHEDULE 2 – SPECIFICATION OF REQUIREMENTS

This Section sets out the Authority's requirements.

Background:

- 1.1 The Animal and Plant Health Agency (APHA, hereafter referred to as the Authority, as defined in section A1) is an Executive Agency of the Authority and delivers the Animal Health and Welfare policies of the Authority, Scottish Government and Welsh Government across Great Britain (GB). One of its principal functions is the safeguarding of animal health and welfare and public health, which in turn supports economic growth and trade.
- 1.2 The Authority has a critical role in the control and eradication of endemic and infectious diseases through both business as usual functions, involving bovine tuberculosis (TB) and responding to outbreaks and incidents, for example Notifiable Avian Disease.
- 1.3 The Authority primarily works to prevent and control animal disease across Great Britain (GB) through activities on farms, at markets and other livestock-related premises, and through specialist veterinary laboratory and scientific services. The Authority is also responsible for advising policy-making departments and providing a veterinary evidence base for animal health and welfare policy decisions. The range of functions also includes research and consultancy, surveillance and management of disease controls, (including import and export controls), and protecting the nation's food supply.

Overview of Framework:

- 1.4 The Contractor shall provide the named COV on their tender response to supplement the Authority's workforce during an outbreak or other contingency response in Scotland to cover specific tasks and are intended to improve emergency response by bringing local knowledge and specialist skill to a Forward Operating Base (FOB).
- 1.5 The named COV for the Contractor (Art Vet Centre Limited) on this agreement is:
 - [REDACTED]
- 1.5 The COV shall be appointed for a period of four (4) years and will be required to attend three (3) days compulsory training in the first year, which may include participation in a disease outbreak exercise.
- 1.6 The COV is expected to attend the compulsory training and start work within the agreed deployment times, advised by the Authority following Framework Award.
- 1.7 The five (5) Regions covered by the Authority's Scotland office (see Annex C Map of Regions and Annex D list of outcodes) are:
Region 1: Inverness (& Thurso sub office)
Region 2: Inverurie

Region 3: Perth
Region 4: Galashiels (& Hamilton sub office)
Region 5: Ayr (& Dumfries & Stranraer sub offices)

1.8 Where ticked below, the Contractor has been awarded the Lot(s)

- Lot 1 Inverness (& Thurso sub office)**
- Lot 2 Inverurie**
- Lot 3 Perth**
- Lot 4 Galashiels (& Hamilton sub office)**
- Lot 5 Ayr (& Dumfries & Stranraer sub offices)**



1.9 The COV shall inform the Authority if they are to be unavailable for a period of longer than one (1) month, due to reasons such as illness, holiday, parental leave etc.

1.10 If the named COV ceases to be employed by the Contractor, the Authority shall terminate the Contract with the COV/Contractor. The Contractor cannot replace the departing COV with a new COV under the Framework Agreement.

1.11 Management of Call-Off Contracts will be delegated to the APHA Contract Management Team (CMT).

DETAILED REQUIREMENTS:

2. Training

2.1 The COV shall undertake three (3) days' compulsory training in year one (1) and one (1) days compulsory training per year in years two (2) to four (4). Training will be provided at the Authority's offices (anticipated to be Inverness, Inverurie, Perth, Galashiels and Ayr). Training dates will be notified at least one (1) month in advance.

2.2 The first year training shall include an induction and overview of Outbreak Response Model/Authority roles. Participation in a local or national exercise may form one of the training days.

2.3 Training will also include veterinary risk assessment training to focus upon factors to consider when: identifying and ranking tracings (including creating tracing windows); recommending premises be taken as Dangerous Contacts or restricted and monitored; licensing decisions; carcass disposal queries; how to target surveillance.

2.4 Attendance at the training dates is compulsory and will be paid for at the hourly rate (see Schedule 3 - Pricing).

2.5 The Authority office(s) delivering the training will issue a call-off order form to the COV. Once the order form has been accepted by the COV, the COV will be contractually obliged to attend the mandatory training session.

2.6 Following first year training, the COV is expected under the Framework Agreement to respond to Call-Off orders for deployment (either accepting or declining the order), in all circumstances where they could have reasonably been expected to respond. However, the COV is not contractually obliged to respond.

3. Call-Off Methodology for Deployment– All Lots:

3.1 In the event of an Outbreak or Incident the Authority will call off using the following methodology:

3.2 The Authority will identify the Contractors appointed in the region where the FOB is located and contact the Contractors.

3.3 The Authority will issue an invitation (via the Standard Order and Response Form in Schedule 6) to those Contractors appointed in the region either via the Authority's e-tendering system (Bravo) or by email depending on the urgency of the requirement.

3.4 The Contractor must confirm by Bravo or email via the Standard Order and Response Form they can fulfil the requirement and be deployed within twenty-four (24) hours unless otherwise agreed with the Authority. Where the FOB is located close to a region boundary the Authority may also contact Contractors in the neighbouring region.

3.5 The Contractor which responds first and confirms it can meet the order form requirement will be selected. If more than one (1) COV is required in a particular location further COVs will be selected based on response time. The Authority may contact Contractors in other regions until the requirements are filled.

3.6 If the Authority decides to place an Order with the Contractor, through the Call Off procedure, this will be based on the Call-Off Order Form set out in Schedule 7.

3.7 The Authority reserves the right not to award a Call-Off Contract following issuance of a RFQ.

3.8 Once a Contractor has accepted an order form for deployment, they will be contractually obliged to provide the services to the Authority as detailed on the Order Form.

3.9 The Authority may review a Contractor's position on the Framework, or seek further information from them, if they fail to respond to one or more call-offs under the framework, where they could have reasonably been expected to respond.

4 Direct Award Methodology – All Lots:

4.1 If particular skills or expertise are required to respond to a disease outbreak or other emergency situation then the Authority may directly award the work to a Contractor who is based in a different region but offers the particular specialism or experience, for example, a detailed knowledge of the poultry industry during an Avian Influenza outbreak (see paragraph 6.7 for more information).

- 4.2 The Authority will identify the relevant Contractor(s) in each of the Lots, based on the specialism required.
- 4.3 The Authority will contact the Contractor from the Lot with the relevant specialism, & closest to the outbreak site.
- 4.4 If the Contractor does not respond immediately or if it is not able to meet the requirement then the next Contractor will be contacted, and so on, until the requirement is fulfilled.
- 4.5 If the Authority decides to place an Order with the Contractor, through the direct award procedure, this will be based on the Call-Off Order Form set out in Schedule 7.

5. Job Role.

The Contractor's named COV as stated in Paragraph 1.5 shall:

- 5.1 Provide veterinary advice and/or guidance to a variety of work areas including assessing notifiable disease reports, identifying and prioritising tracings, auditing visits, monitoring/enforcing biosecurity and conducting veterinary risk assessments.
- 5.2 Provide veterinary expertise that can take account of local situation, e.g. husbandry, geography, marketing, movements etc.
- 5.3 Risk assess movement licence applications.
- 5.4 Act as point of contact for non-permanent or contracted veterinary staff undertaking work in Field Operations, e.g. Veterinary Inquiries, supervision of depopulation activity, and other veterinary risk assessments.
- 5.5 Respond flexibly to incidents and outbreaks of notifiable animal disease and may deliver other veterinary roles and tasks beyond those outlined in this specification by mutual agreement.
- 5.6 Provide veterinary advice and make effective decisions at the individual / premises level in a disease emergency situation, using sound veterinary judgment and adhering to standard guidance and operating procedures where applicable.
- 5.7 Ensure professional decisions, advice and actions are based on evidence, take account of the policy and ensure legal frameworks are clearly and appropriately communicated.
- 5.8 Undertake audit work in relation to field outbreak activities as required.
- 5.9 Use veterinary expertise to support interventions as necessary, including the gathering, interpretation and presentation of evidence, appearing as a witness of fact or as a professional witness when required, and on occasions providing expert witness testimony if appropriately qualified.

- 5.10 Apply relevant EU, UK and Scotland specific legislation in line with policy and best regulatory practice in order to positively influence behaviours while minimising burdens on industry.
- 5.11 Represent the Agency, engaging with animal keepers, wider industry and operational partners to gather intelligence, and educate and influence to improve the level of understanding, compliance and safe behaviour.
- 5.12 Comply with the Authority's health, safety and biosecurity protocols and, also perform dynamic risk assessments when on site, where appropriate, to ensure that those that could be affected by their acts and omissions are not put at undue risk.
- 5.13 Wear Personal Protective Equipment (PPE) and Respiratory Protective Equipment (RPE) as appropriate to tasks undertaken.
- 5.14 In an Outbreak or Incident where zoonotic diseases are present, be willing to be vaccinated and take anti-viral medicines as directed.
- 5.15 Participate in veterinary and where applicable management duty and rota(s), including weekends and public holidays, to ensure provision of a seven (7) day capability to provide telephone advice and immediate response to incidents and emergencies as required by the business during an outbreak.

6. Essential Skills/Qualifications.

The Contractor's named COV as stated in Paragraph 1.5 shall:

- 6.1 Be registered as UK Practising F or MRCVS qualified and evidence at least two (2) years' experience of working as a veterinary surgeon in practice in the UK with food producing species including clinical examination/sampling, knowledge of husbandry, industry structure, slaughter, endemic disease controls and regulation.
- 6.2 Hold the OCQ(V) ES and shall maintain appropriate veterinary expertise by undertaking and recording Continuing Professional Development.
- 6.3 Have excellent communication skills in both spoken and written English.
- 6.4 Be confident in the use of Microsoft Word, Outlook and Excel.
- 6.5 Maintain a record of relevant Continuing Professional Development in accordance with Royal College of Veterinary Surgeons (RCVS) requirements.
- 6.6 Have a driving licence valid in the UK.
- 6.7 The Specialisms which may be required during a disease outbreak or emergency situation are:
 - Practical experience of pigs including clinical examination/sampling and knowledge of husbandry, industry structure & slaughter.

- Practical experience of poultry including clinical examination/sampling and knowledge of husbandry, industry structure & slaughter.

6.8 Where ticked below, the Contractor has been identified on this Framework as a specialist in that field:

Pigs

Poultry



7. Additional Requirements.

- 7.1 The Contractor shall confirm that the COV has the required qualifications to undertake the role as defined in this specification.
- 7.2 The COV will be required to provide evidence of health clearance before they can start a job and on-going health surveillance shall be undertaken by the Contractor.
- 7.3 The Contractor shall carry out the relevant identity checks to ensure that all COVs are legally permitted to work as veterinary surgeons in the UK.
- 7.4 The Contractor shall carry out the relevant checks to ensure that all COVs are physically and psychologically capable of carrying out the Services.
- 7.5 The Contractor shall also verify the candidate's identity and employment history, and undertake a criminal record check if required by the Authority before deployment.
- 7.6 The Contractor will be required to verify the COV's level of spoken and written English.
- 7.7 Records must be available of the above in 6.1, 6.2, 6.5 and 6.6 to the Authority within one (1) working day of a request. Audits may be carried out to ensure they are in place as confirmed by the Contractor.
- 7.8 IT, office equipment and specialist PPE will be provided by the Authority where required. General PPE such as wellington boots and waterproofs/overalls must be provided by the Contractor.
- 7.9 COVs shall provide their own transport for daily travel and hold business use car insurance.
- 7.10 In an Outbreak or Incident where zoonotic diseases are present vaccinations or medicines are normally provided by the Authority, but where this is not the case, the Contractor will be expected to provide these. The Authority will reimburse the reasonable costs of provision of immunisation and anti-viral prophylaxis. Written evidence of these costs must be provided.

8. Performance management framework (including key performance indicators)

- 8.1 As part of the Authority's continuous drive to improve the performance of all contracts, this Performance Management Framework will be used to monitor, measure and control all aspects of the Contractor's performance of contract responsibilities.

- 8.2 The purpose of this Performance Management Framework is to set out the obligations on the Contractor, to outline how the Contractor's performance will be evaluated and to detail the sanctions for performance failure. The Contractor is responsible for the performance of any sub-contractors.
- 8.3 Key Performance Indicators (KPIs) are essential to align Contractor performance with the requirements of the Authority and to do so in a fair and practical way. KPIs must be realistic, achievable, and set to indicate where the service is failing if they are not achieved. Without the additional use of service credits, failure to meet KPIs will strain the relationship as delivery falls short of agreed performance standards. As a result, the only recourse would be to terminate the Framework and seek an alternative Contractor.
- 8.4 The use of a strong service credit regime accompanied by a proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service. It is not about taking cost out of the service.
- 8.5 KPIs are set out at Annex A. They will be monitored on a monthly, quarterly or annual basis as appropriate to the service and will form part of the contract performance review.
- 8.6 The Authority will be entitled to refine, vary or modify the KPIs, performance standards and service credits from time to time during the Contract Period through a variation to be agreed with the Contractor using a Contract Change Note (CCN).
- 8.7 Where a KPI has a percentage measure, the Contractor's performance will be rounded to the nearest whole number.
- 8.8 The Authority will produce an annual Performance Management report, to be sent to the Contractor, detailing the Contractor's performance against KPIs. This will cover any training or deployment call-offs which have taken place during the period.
- 8.9 The Contractor will maintain their own management reports, including Issues Log, which will include detail on periodic checks to ensure quality.
- 8.10 Any performance issues highlighted in the reports will be addressed by the Contractor, who may be required to provide an improvement plan to address all issues highlighted within a week of receipt of the report. Performance management reports and KPI performance will be a key feature of any Contract Review meetings.
- 8.11 Where performance failure attributable to the Contractor is identified in the Performance Management report and relates to the KPIs then the service credit regime may apply, at the sole discretion of the Authority.

9. Service credits

- 9.1 The use of service credits is governed by the following principles:

- 9.2 Service credits sit within the wider service management approach being pursued by the Contractor and the Authority. Use of service credits does not preclude any other remedy for failure of performance available to the Authority under the terms and conditions of the Call-Off Contract.
- 9.3 The service credit regime will be instigated on each occasion when there is a service failure (i.e. where a KPI is identified as having a 'Red status') within the performance monitoring period. Failure to meet a KPI may also give rise to a remediation plan.
- KPIs with a service credit rating of 0 will have no associated service credit
 - KPIs with a service credit rating of 1 will have a service credit of 3% of the invoice amount for the associated call-off contract value (the applicable quarterly period), applied for each KPI failure
 - KPIs with a service credit rating of 2 will have a service credit of 5% of the invoice amount for the call-off contract value (the applicable quarterly period), applied for each KPI failure
 - The maximum annual service credit to be applied will be no more than 9% of the total call-off contract value.
- 9.4 The Contractor will provide the Authority with the information listed in the Specification and such other supporting information as the Authority may reasonably request in order to determine the proper application of any service credits due.
- 9.5 For services where the Contractor is paid by the Authority, service credits will be paid to the Authority as a credit note to the next invoice, or if no invoice is due within 30 days of a performance report, then the Contractor will issue a bespoke credit note to the Authority.
- 9.6 For services where the Contractor recovers costs directly, service credits will be paid to individual users of the service as a credit note to their next invoice. The Contractor will propose how the service credit amounts will be applied to each user of the service.
- 9.7 The full, agreed service credit regime will operate from the initial delivery date until the end of the Contract Period. At the end of the first complete performance monitoring period, the Authority and the Contractor will enter into good faith discussions to review the KPIs and assess their effectiveness. The KPIs may be adjusted to ensure that they are appropriate and achievable.

SCHEDULE 3 - PRICING

Training

- 1.1 The Pricing Schedule sets out the hourly rate that will be paid by the Authority in respect of training.

Hourly Training Rate	£78.78
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- 1.2 Training will be delivered as sessions of around 8 hours wherever possible.
- 1.3 Mileage allowances shall be payable in respect of training attendance, in accordance with the Authority's Travel and Subsistence policy at Annex B. No call-out or task fees may be charged for attending such sessions or meetings.
- 1.4 Where additional travel expenses such as ferry costs, air fares, tolls, train fares or, exceptionally, reasonable overnight accommodation costs are necessarily incurred in the attendance of training these may be reclaimed at cost, and in accordance with the Authority's Travel & Subsistence Policy at Annex B. Copies of receipts must be provided.

Deployment

- 1.5 During deployment of a COV (in the event of an Outbreak or Incident), payment will be made at the daily rate, whereby a day is considered for this Framework as a period of up to ten (10) hours, within the hours of 06:00 to 20:00 Monday to Sunday.

Daily Deployment Rate	£787.80
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- 1.6 Commuting time/costs to the FOB and accommodation costs are not payable.
- 1.7 During deployment, travel for official business from the FOB such as field visits (to an alternative location) are payable in accordance with the Authority's Travel & Subsistence policy at Annex B.

SCHEDULE 4 - CHANGE CONTROL

Contract Change Note

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

WHEREAS the Contractor and the Authority/Customer entered into a Contract for the supply of **[project name]** dated **[dd/mm/yyyy]** (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

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

2. Save as herein amended all other terms of the Original Contract shall remain effective.
3. This Change Control Notice shall take effect from the date on which both the Authority/Customer and the Contractor have communicated acceptance of its terms via Bravo.

SCHEDULE 5 - PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. This Schedule shall be completed by the Authority or, in respect of any Call-Off Contract, the Customer, who may take account of the view of the Contractor, however the final decision as to the content of this Schedule shall be with the Authority (or in respect of any Call-Off Contract the Customer), at its absolute discretion.

2. The contact details of the Authority Data Protection Officer are:

 Defra Group Commercial
DGC.GDPR@defra.gov.uk

3. The contact details of the Contractor Data Protection Officer are:

 [REDACTED]
 [REDACTED]

4. If a Call-Off Contract involves Personal Data processing that differs from the instructions given in the table below, a Customer may include such specific instructions in an Order Form and such instructions shall apply in respect of that Call-Off Contract.

5. The Contractor shall comply with any further written instructions with respect to processing by the Customer. Any such further instructions shall be incorporated into this Schedule.

Data Processing Descriptor	Narrative
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor in accordance with clause 18 of the Framework Agreement and clause E2.1 of the Call-Off Contract.
Subject matter of the processing	<p>The Animal and Plant Health Agency (APHA) is an Executive Agency of the Authority and delivers the Animal Health and Welfare policies of the Authority, Scottish Government and Welsh Government across Great Britain (GB).</p> <p>APHA has a critical role in the control and eradication of endemic and infectious diseases through both business as usual functions, involving bovine tuberculosis (TB) and responding to outbreaks and incidents, for example Notifiable Avian Disease.</p>
Duration of the processing	The Framework Period: 01/12/2019 – 30/11/2023

<p>Nature and purposes of the processing</p>	<p>Nature: storage, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available,</p> <p>Purpose: To provide support to the APHA workforce during an outbreak or other contingency response in Scotland to cover specific tasks and are intended to improve emergency response by bringing local knowledge and specialist skill to a Forward Operating Base (FOB).</p>
<p>Type of Personal Data</p>	<p>Details of FOB addresses and other outbreak sites which may be farms / farmer's contact details / data pertaining to farmer's assets and business operations.</p>
<p>Categories of Data Subject</p>	<p>Farmers, farm workers, other veterinary personnel involved in the outbreak response.</p>
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	<p>In accordance with Clause E2.7.5 – “at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call-Off Contract unless the Contractor is required by Law to retain the Personal Data”.</p>

SCHEDULE 6 – STANDARD ORDER AND RESPONSE FORM

COV SERVICES FOR SCOTLAND FRAMEWORK: STANDARD ORDER/RESPONSE FORM

All requirements must be detailed on this form.

Requirements must be approved.

Approved forms must be sent via email to: contractmanagement@apha.gov.uk

Lot	
Named Contact:	Enter Named Contact
Contact Tel Number:	Enter Tel Number
Location to report to:	Enter the location address
Daily Start time:	Enter a time
Daily End time:	Enter a time
Deployment Date from:	Enter a date.
Deployment date to (estimate for an outbreak):	Enter a date.
Cost Centre:	Enter cost centre
Requested by:	Enter name of requestor
Approver:	Enter name of approver
Date:	Enter a date.
Requirement Reference Number:	To be entered by Contract Management
Extension from:	Enter a date.
Extension to:	Enter a date.
Requested by:	Enter name of requestor
Approver:	Enter name of approver
Date:	Enter a date.

STANDARD RESPONSE FORM

To be completed by Providers when responding to a requirement received on a standard order form from Contract Management.

Standard Response Forms must be sent via email to: contractmanagement@apha.gov.uk within 24 hours

Requirement Reference Number:	Enter Requirement Reference Number
Named Contact:	Enter Named Contact
Contact Tel Number:	Enter Tel Number
Health Surveillance complete	Please confirm
Baseline &/ Security Clearance Checks complete	Please confirm
Has relevant qualifications	Please confirm
Suitable Communication skills in English (written & spoken)	Please confirm
Date:	Enter a date.

For CMT use only:

Deployment Log Completed	Please confirm
Deployment Order Form Completed and Sent to Supplier and DGC	Please confirm
Date:	Enter a date.
Name of CMT member responsible:	Enter Name

SCHEDULE 7 – CALL-OFF ORDER FORM



Department
for Environment
Food & Rural Affairs

CALL-OFF ORDER FORM UNDER CONTINGENCY OFFICIAL VETERINARY SERVICES FOR SCOTLAND FRAMEWORK (REF: 25812)

FROM

Authority	Defra on behalf of the Secretary of State for Environment, Food and Rural Affairs (the Customer).
Address	Defra Group Commercial Woodham Lane, New Haw, Addlestone, Surrey KT15 3NB
Contact Ref	Name: Phone: Email: contractmanagement@apha.gov.uk
Requirement Reference Number	
Order Date	

TO

Contractor	
For the attention of	
Address	

1. SERVICES REQUIREMENTS	
1.1	Lot
1.2	Location(s) at which Services are to be provided:
1.3	Name/s of Personnel:
1.4	Deployment Dates:

1.5 Line Manager:						
2. ADDITIONAL RELEVANT INFORMATION						
2.1 Any relevant information for this requirement:						
3. PRICE AND PAYMENTS						
3.1 Contract Price payable by the Authority (excluding VAT).						
<table border="1"> <thead> <tr> <th>Reference Number:</th> <th>Name of Personnel</th> <th>Day Rate</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Reference Number:	Name of Personnel	Day Rate			
Reference Number:	Name of Personnel	Day Rate				
3.2 Estimated Total Value of Requirement:						
3.3 Invoicing and Payment						
The Contractor shall issue invoices monthly in arrears.						

4. INVOICING REQUIREMENTS
All invoices should contain or be accompanied by the following information:
Please quote the name of the personnel, purchase order number (as advised) and cost centre { <i>cost centre number</i> } on each invoice.

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

ANNEX A – KEY PERFORMANCE INDICATORS

KPI	Description	Measure	KPI Target	Source(s)	Service Credit Rating
KPI 1 Service Delivery	COVs attend required training	All COVs attend compulsory training events (3 days in year 1, 1 day in years 2, 3 and 4).	100%	APHA Policy Team	2
KPI 2 Service Delivery	COVs deployed within required timescales –detailed in Schedule 2 (Specification of Requirements)	COVs attend outbreak incidents within timescale agreed on the Call-Off order form.	100%	APHA Policy Team	2
KPI 3 Service Delivery	Records of required checks detailed in Schedule 2 (Specification of Requirements) available for audit.	The Contractor furnishes the Authority with the necessary documentation within the timescales set out in Schedule 2 (Specification of Requirements).	100%	APHA Policy Team	1
KPI 4 Contract Management	Timely submission of invoices	The Contractor submits invoices in accordance with clause C2.18 of the Call-off Contract Terms and Conditions.	100%	APHA Contract Management Team	0

ANNEX B – TRAVEL AND SUBSISTENCE

- 1.1 All Travel and Subsistence should be in line with the Scottish Government's OV19(S) form *Scale of Fees for Service Rendered in Scotland by Official Veterinarians* and the Authority's Travel and Subsistence Policy:

<http://apha.defra.gov.uk/documents/ov/OV19-S.pdf>

- 1.2 Claims should always be supported by valid receipts for audit purposes and must not exceed any of the stated rates on the OV19(S) form. Should the stated rate be exceeded, the Authority reserves the right to reimburse only up to the stated rate.

ANNEX C – MAP OF REGIONAL LOTS

A map of the Regional Lots can be downloaded from the “Supplier Attachments” area of the Bravo Contract Record 25812 where this Framework Agreement is located.

<https://defra.bravosolution.co.uk/web/login.html>

Please note that where an Outcode region overlaps the boundary between two lots, the Outcode is assigned to the Lot in which the majority of it's area is contained.

ANNEX D – LIST OF OUTCODES

Lot 1 - Inverness (& Thurso sub office)

HS1	IV10	IV2	IV3	IV48	IV63	KW15	PA80	PH32	PH42
HS2	IV11	IV20	IV4	IV49	IV7	KW16	PH19	PH33	PH43
HS3	IV12	IV21	IV40	IV5	IV8	KW17	PH20	PH34	PH44
HS4	IV13	IV22	IV41	IV51	IV9	KW2	PH21	PH35	
HS5	IV14	IV23	IV42	IV52	KW1	KW3	PH22	PH36	
HS6	IV15	IV24	IV43	IV53	KW10	KW5	PH23	PH37	
HS7	IV16	IV25	IV44	IV54	KW11	KW6	PH24	PH38	
HS8	IV17	IV26	IV45	IV55	KW12	KW7	PH25	PH39	
HS9	IV18	IV27	IV46	IV56	KW13	KW8	PH26	PH40	
IV1	IV19	IV28	IV47	IV6	KW14	KW9	PH31	PH41	

Lot 2 – Inveruie

AB10	AB23	AB36	AB51	IV36
AB11	AB24	AB37	AB52	ZE1
AB12	AB25	AB38	AB53	ZE2
AB13	AB30	AB39	AB54	ZE3
AB14	AB31	AB41	AB55	
AB15	AB32	AB42	AB56	
AB16	AB33	AB43	IV30	
AB21	AB34	AB44	IV31	
AB22	AB35	AB45	IV32	

Lot 3 – Perth

DD1	FK14	G81	KY5	PA31	PA48	PA73	PH18
DD10	FK15	G82	KY6	PA32	PA49	PA74	PH2
DD11	FK16	G83	KY7	PA33	PA60	PA75	PH3
DD2	FK17	G84	KY8	PA34	PA61	PA76	PH30
DD3	FK18	KY1	KY9	PA35	PA62	PA77	PH4
DD4	FK19	KY10	PA21	PA36	PA63	PA78	PH49
DD5	FK20	KY11	PA22	PA37	PA64	PH1	PH5
DD6	FK21	KY12	PA23	PA38	PA65	PH10	PH50
DD7	FK7	KY13	PA24	PA41	PA66	PH11	PH6
DD8	FK8	KY14	PA25	PA42	PA67	PH12	PH7
DD9	FK9	KY15	PA26	PA43	PA68	PH13	PH8
FK10	G14	KY16	PA27	PA44	PA69	PH14	PH9
FK11	G60	KY2	PA28	PA45	PA70	PH15	
FK12	G63	KY3	PA29	PA46	PA71	PH16	
FK13	G66	KY4	PA30	PA47	PA72	PH17	

Lot 4 – Galasheils (& Hamilton sub office)

EH1	EH23	EH37	EH51	FK6	G34	G69	ML6	TD2
EH10	EH24	EH38	EH52	G1	G4	G71	ML7	TD3
EH11	EH25	EH39	EH53	G11	G40	G72	ML8	TD4
EH12	EH26	EH4	EH54	G12	G41	G73	ML9	TD5
EH13	EH27	EH40	EH55	G13	G42	G74	NE19	TD6
EH14	EH28	EH41	EH6	G15	G44	G75	NE48	TD7
EH15	EH29	EH42	EH7	G2	G45	G79	NE65	TD8
EH16	EH3	EH43	EH8	G20	G5	ML1	NE71	TD9
EH17	EH30	EH44	EH9	G21	G51	ML10	TD1	
EH18	EH31	EH45	EH99	G22	G61	ML11	TD10	
EH19	EH32	EH46	FK1	G23	G62	ML12	TD11	
EH2	EH33	EH47	FK2	G3	G64	ML2	TD12	
EH20	EH34	EH48	FK3	G31	G65	ML3	TD13	
EH21	EH35	EH49	FK4	G32	G67	ML4	TD14	
EH22	EH36	EH5	FK5	G33	G68	ML5	TD15	

Lot 5 – Ayr (& Dumfries & Stranraer sub offices)

DG1	DG5	G77	KA17	KA26	KA8	PA16	PA6
DG10	DG6	G78	KA18	KA27	KA9	PA17	PA7
DG11	DG7	KA1	KA19	KA28	PA1	PA18	PA8
DG12	DG8	KA10	KA2	KA29	PA10	PA19	PA9
DG13	DG9	KA11	KA20	KA3	PA11	PA2	
DG14	G43	KA12	KA21	KA30	PA12	PA20	
DG16	G46	KA13	KA22	KA4	PA13	PA3	
DG2	G52	KA14	KA23	KA5	PA14	PA4	
DG3	G53	KA15	KA24	KA6	PA15	PA5	