

Digital Outcomes and Specialists 2 Framework Agreement Call-Off Contract

This Call-Off Contract for the Digital Outcomes and Specialists 2 Framework Agreement (RM1043iv) includes

Part A - Order Form

Part B - The Schedules

Schedule 1 - Requirements

Schedule 2 - Supplier's response

Schedule 3 - Statement of Work (SOW), including pricing arrangements

Schedule 4 - Contract Change Notice (CCN)

Schedule 5 - Balanced Scorecard

Schedule 6 - Optional Buyer terms and conditions

Schedule 7 - How Services will be bought (Further Competition process)

Schedule 8 - Deed of guarantee

Schedule 9 – Processing, Personal Data and Data Subjects

Part C – Terms and conditions as at www.gov.uk

1. Contract start date, length and methodology
2. Supplier Staff
3. Swap-out
4. Staff vetting procedures
5. Due diligence
6. Warranties, representations and acceptance criteria
7. Business continuity and disaster recovery
8. Payment terms and VAT
9. Recovery of sums due and right of set-off
10. Insurance
11. Confidentiality
12. Conflict of Interest
13. Intellectual Property Rights
14. Data Protection and Disclosure
15. Buyer Data
16. Document and source code management repository
17. Records and audit access
18. Freedom of Information (FOI) requests
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21. Incorporation of terms
22. Managing disputes
23. Termination

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28. Staff Transfer
29. Help at retendering and handover to replacement supplier
30. Changes to Services
31. Contract changes
32. Force Majeure
33. Entire agreement
34. Liability
35. Waiver and cumulative remedies
36. Fraud
37. Prevention of bribery and corruption
38. Legislative change
39. Publicity, branding, media and official enquiries
40. Non Discrimination
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42. Equipment
43. Law and jurisdiction
44. Defined Terms

The Order Form (Part A), the Schedules (Part B) and the Terms and Conditions (Part C) (together the “**Call-Off Contract**”) will become the binding contract after the Further Competition Process has been concluded. Specific details will be added after the award of the Framework Agreement. The Order Form may include:

- Buyer and Supplier details

- contract term
- Deliverables
- location
- warranties
- staffing needs
- staff vetting procedure
- notice period for termination
- standards required (including security requirements)
- charges, invoicing method, payment methods and payment terms
- additional Buyer terms and conditions
- insurances
- business continuity and disaster recovery
- security
- governance
- methodology
- Buyer and Supplier responsibilities

A mockup Order Form (Part A) and Schedules (Part B) is set out below.

During the lifetime of the Framework Agreement, the Call-Off Contract Order Form template will be regularly updated to ensure that it continues to meet user needs.

Part A - Order Form

Buyer	Secretary of State for the Environment, Food and Rural Affairs		
Supplier	Atos IT Services UK Limited		
Call-Off Contract/Project Ref.	23797		
Call-Off Contract title	UnlTy Programme UAT Support Service		
Call-Off Contract description	The Supplier will lead, shape and manage the successful delivery of User Acceptance Testing (UAT) across the Buyer's Group and UnlTy procurements. The UAT Support Service will support the Buyer and new suppliers of UnlTy services to ensure continued access to, and availability of, the UnlTy services during the period of implementation.		
<u>Call-Off Contract period</u>	18 months		
Start date	1st February 2019		
End date	31 st July 2020		
(Optional) Maximum Call-Off Contract Extension Period	6 months		
Latest Extension Period End Date	31 st January 2021		
Notice period (prior to the initial Call-Off Contract period) to trigger Call-Off Contract Extension	3 months		
<u>Call-Off Contract value</u>	Up to £759,474		
Charging method	<table border="1" style="width: 100%;"> <tr> <td style="padding: 5px;">Capped time and materials (CTM)</td> <td style="text-align: center; vertical-align: middle;">✓</td> </tr> </table>	Capped time and materials (CTM)	✓
Capped time and materials (CTM)	✓		

Notice period for termination for convenience	30 Working Days
Purchase order No.	TBC
Initial SOW package	TBC

This Order Form is issued in accordance with the Digital Outcomes and Specialists Framework Agreement (RM1043iv).

Project reference: 23797
Buyer reference: 23797

Order date: 1st February 2019
Purchase order: TBC

From: **the Buyer**
Secretary of State for the Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

To: **the Supplier**
Supplier Name: Atos IT Services UK Ltd
Supplier Phone: 0800 783 3040
Supplier's address:
2nd Floor, MidCity Place
71 High Holborn
London
WC1V 6EA
United Kingdom
Company Number: 01245534

Together: **the "Parties"**

Principle contact details

For the Buyer: Name: [REDACTED]
Title: [REDACTED]
Email: [REDACTED]
Phone: [REDACTED]

For the supplier: Name: [REDACTED]
Title: [REDACTED]
Email: [REDACTED]
Phone: [REDACTED]

Call-Off Contract term

Commencement date: 1st February 2019 and is valid for 18 months

Maximum Extension Period 6 months

Latest End date of any Extension Period 31st January 2021

Buyer contractual requirements

Digital outcomes and specialists services required: For the provision of User Acceptance Testing (UAT) Support Services

Warranty period 90 days from the date of Buyer acceptance of release.

Location: London or other Buyer locations as may be required

Staff vetting procedures: The level of clearance for this requirement is: Baseline Personnel Security Standard (BPSS) cleared (via Disclosure Scotland)

Standards: N/A

Limit on supplier's liability: As per clause 34 of the Call-Off Contract

Insurance: Supplier insurance limits

- Third party public and products liability insurance - sufficient insurance to cover liability for damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, minimum of £5,000,000 in aggregate.
- Professional indemnity insurance – minimum of £1,000,000 in respect of any one claim during the Call-Off

Contract, and for 6 years after the termination or expiry date of the Call-Off Contract.

Supplier's information

Commercially sensitive information: The Call-Off Contract Charges.

Subcontractors / Partners: N/A

Call-Off Contract Charges and payment

The method of payment for the Call-Off Contract BACS

Charges (GPC or BACS)

Invoice details

Invoices to be sent by post to address stated below

Who and where to send invoices to:

SSCL AP, Defra, PO Box 790, Newport, Gwent, NP10 8FZ

Invoice information required – eg PO,

project ref, etc.

- (a) the date of the invoice;
- (b) a unique invoice number;
- (c) the SOW to which the Call-Off Contract Charge(s) relate;
- (d) the correct reference for this Call Off Contract;
- (e) the reference number of the purchase order to which it relates (if any);
- (f) the dates between which the Services subject of each of the Call-Off Contract Charges detailed on the invoice were performed;
- (g) a description of the Services;
- (h) the pricing mechanism used to calculate the Call-Off Contract Charges;
- (i) a contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries; and
- (j) the banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number);

Invoice frequency

Monthly

Call-Off Contract value:

Up to £759,374 exclusive of any applicable VAT

Call-Off Contract Charges:

[Redacted Table]

Capped Price

Capped Price £ 759,374

[Redacted Table]

The capped price set out above is inclusive of the estimated effort and contingency days detailed in the tables above. Actuals days shall be tracked and reported by the Supplier to the Authority on a monthly basis, which will form the basis for the monthly invoices issued in accordance with the terms of this Call-Off Contract – these actuals will be compared against the estimated total days before contingency as set out in the table above. Contingency days may be utilised when properly justified by the Supplier as strictly required to fulfil the requirements and pre-approved by the Authority in writing. In the event that the capped price set out above is reached, any and all overspend caused or contributed to by the Supplier / its subcontractors shall be borne by the Supplier and shall

not be charged to the Authority. In the event of a material change in the scope of the Services, the parties shall agree in writing any associated increase or reduction in the capped price in accordance with the change control procedure set out in clause 31 of the Call-Off Contract terms (as amended below).

Additional Buyer terms

Warranties, representations and acceptance criteria

The Supplier warrants and undertakes to the Buyer that:
Not Used

Supplemental requirements in addition to the call-off terms

Training:

The pricing model accommodates UAT training that will be delivered as 1 day onsite/remote workshops each calendar month during UAT planning and execution. Each training workshop will inform End Users of the Master UAT Framework approach, and required deliverables and outcomes of UAT execution along with coaching to allow them to identify, create and execute the business scenarios that will provide maximum benefit to the Authority, during UAT.

All UAT participants are required to attend a training workshop in advance of their participation in a scheduled UAT execution phase or phases, as part of our approach.

There is included a further contingency for additional 1 day onsite/remote training workshops where scheduling

conflicts do not enable End Users to attend an appropriate monthly training workshop.

UAT Scripting:

The pricing model assumes effort to enhance or fully write up to a maximum of 250 UAT scripts, and a maximum of 6 hours analysis and writing time per script. The Supplier will implement a Risk Based Testing approach to prioritise effort on creating scripts that test business scenarios with the highest likelihood and impact of failure in live service.

If UAT planning identifies a significant lack of UAT script coverage and there is insufficient budget to create all of the missing UAT scripts within the available time window, the Master UAT Framework approach will complement scripted UAT execution with exploratory testing executed by a team of End Users. Additional complexity contingency has been included in our pricing model and will be triggered if needed. The required number of End Users to support UAT execution and exploratory testing will be defined in the UAT Plan submitted to the Authority for approval.

Exploratory Testing results and findings will be recorded and

logged in the Authority testing repository.

Buyer specific amendments to/refinements of the Call-Off Contract terms

1. The Parties acknowledge that an agile methodology is not appropriate for the purposes of this Call Off Contract and any Statement of Work.
2. Where any aspect of the Services is to be carried out at a premises belonging to a third party, the Supplier shall and shall procure that the Supplier Staff shall comply with any and all instructions, policies and directions of such third party.
3. The Supplier acknowledges that:
 - a. The Buyer is procuring services on behalf of itself, the Environment Agency, the Rural Payments Agency, Natural England, the Animal and Plant Health Agency and the Marine Maritime Organisation (together, the "**Service Recipients**"). Such Service Recipients shall have the benefit of the rights of the Buyer under the Call-Off Contract. Any reference in the Call-Off Contract to the Buyer benefitting from the Services shall be interpreted as extending to the Service Recipients;
 - b. Subject to Clause 34, Losses suffered by a

- Service Recipient that are caused by a Default of the Supplier, its Subcontractors or any Supplier Staff shall be deemed to be Losses that have been suffered by, and which are recoverable by, the Buyer; and
- c. Subject to the provisions of paragraph 3(a) above and the rights of Service Recipients and except as may be expressly set forth in the Call-Off Contract, a person who is not a Party to the Call-Off Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Call-Off Contract.
4. Supplier insurance limits:
- a. Third party public and products liability insurance - sufficient insurance to cover liability for damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, minimum of £5,000,000 in aggregate
 - b. Professional indemnity insurance – minimum of £1,000,000 in respect of any one claim during the Call-Off Contract, and for 6 years after the termination or expiry date of the Call-Off Contract.

Amended Clauses:

1. Clause 29.1 to be replaced with 'NOT USED'.
2. Clause 29.2 to be replaced with 'NOT USED'.
3. Clause 30 to be replaced with 'NOT USED'.
4. Clause 31.3 to be replaced with 'NOT USED'.
5. Clauses 1, 6, 8, 11, 13, 14, 20, 24, 31, 34 and 44 of the Call-Off Contract terms are amended as follows with additions to clauses being underlined in red and deletions to clauses being struck-through:

A. Clause 1.6 shall be amended as follows:

1.6 The Supplier will plan on using an agile process, starting with user ~~needs~~waterfall methodology. The methodology will be outlined in the SOW. ~~Waterfall methodology will only be used in exceptional circumstances, and where it can be shown to best meet user needs. Projects may need a combination of both waterfall and agile methods, playing to their respective strengths.~~

B. Clause 6.4 shall be amended as follows:

The Supplier undertakes to maintain any interface and interoperability between third-party software or ~~S~~services and software or Services developed by the Supplier.

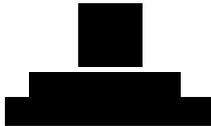
C. New clause 6.6 to be added:

In producing its Deliverables so as to accord to the Buyer's requirements as set out in this Call-Off Contract, the Supplier shall comply in all respects with the Buyer's

requirements and any other reasonable instructions given by the Buyer to the Supplier

D. The following new clauses 8.1 - 8.5 shall be added and the remaining clauses in clause 8 renumbered accordingly.

- 8.1 The Supplier will submit the timesheets to the Buyer on a weekly basing using format agreed with the Buyer. Any disputes will be discussed at the delivery level and in case of the dis-agreement the commercial team will be involved.
- 8.2 Any corrections to the previously submitted data to be notified with appropriate reasoning.
- 8.3 The timesheet data will also include the rates and cost for each resource for each period.
- 8.4 Once the timesheet data is agreed the Supplier will inform of any applicable discounts and then raise the formal invoices. The timesheet data will also include the rates and cost for each resource for each period.
- 8.5 Current time sheet process listed in the following slide deck.



E. Clause 11.3 shall be amended as follows:

- 11.3 The Buyer and each of the Service Recipients may disclose the Supplier's Confidential Information:
- to any central government body on the basis that the information may only be further disclosed to central government bodies;
 - to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees;
 - if the Buyer/Service Recipient (acting reasonably) deems disclosure necessary or appropriate while carrying out its public functions;
 - on a confidential basis to exercise its rights or comply with its obligations under the Call-Off Contract; or
 - to a proposed transferee, assignee or novatee of, or successor in title to, the Buyer/Service Recipient.

F. Clause 13 shall be amended as follows:

13. Intellectual Property Rights

13.1 Unless otherwise specified in the Call-Off Contract:

- the Buyer will not have any right to the Intellectual Property Rights (IPRs) of the Supplier or its licensors, including the Supplier Background IPRs and any IPRs in the Supplier Software.
- the Crown may publish any Deliverable that is software as open source.
- the Supplier will not, without prior written approval from the Buyer, include any Supplier Background IPR or third party IPR in any Deliverable in such a way to prevent its publication;
 - and failure to seek prior approval gives the Buyer right and freedom to use all Deliverables.
- the Supplier will not have any right to the Intellectual Property Rights of the Buyer or its licensors, including:
 - the Buyer Background IPRs;
 - the Project-Specific IPRs;
 - IPRs in the Buyer Data.

13.1A Subject to the Background IPRs provisions set out in clause 13.1 and 13.5, all IPRs in the Project-Specific IPRs and the Deliverables shall vest in the Buyer unconditionally and immediately upon their creation. Accordingly, the Supplier assigns to the Buyer, with full title guarantee for all purposes, applications and fields of use (including by way of an assignment of future IPRs) all IPRs in the Project-Specific IPRs and the Deliverables including the right to take action for any past, present and future damages and other remedies in respect of any infringement. The Supplier shall execute, and shall procure that any Subcontractors execute, such documents and do such things as the Buyer may consider reasonably necessary to give effect to this clause 13.1A. The Buyer grants on an "as is" basis to the Supplier a royalty free, non-exclusive, non-transferable licence to use, and to permit its Subcontractors to use, the Project-Specific IPRs and the Deliverables during the term of the Call-Off Contract solely to the extent reasonably required in order to perform the Services.

13.2 Where either Party acquires, by operation of Law, right to IPRs that is inconsistent with the allocation of rights set out in clauses 13.1 to 13.1A above, it will assign in writing such IPRs as it has acquired to the other Party ~~on the request of the other Party (whenever the request is made)~~ with full title guarantee for all purposes, applications and fields of use (including by way of an assignment of future IPRs).

- 13.3 Except where necessary for the performance of the Call-Off Contract (and only where the Buyer has given its prior written approval and subject to any conditions imposed by the Buyer), the Supplier will not use or disclose any of the Buyer Background IPRs, Buyer Data or the Project-Specific IPRs to or for the benefit of any third party.
- 13.4 The Supplier will not include any Supplier Background IPRs or third-party IPRs in any release or Deliverable that is to be assigned to the Buyer under the Call-Off Contract, without prior written approval from the Buyer.
- 13.5 The Supplier will grant the Buyer (and any ~~replacement~~ third party Supplier to the Buyer or any Service Recipient) a perpetual, transferable, sub-licensable, non-exclusive, royalty-free licence to copy, modify, disclose and use the Supplier Background IPRs for any purpose connected with the receipt of the Services and/or use of the Deliverables that is additional to the rights granted to the Buyer under the Call-Off Contract and to enable the Buyer:
- to receive the Services;
 - to make use of the ~~S~~services provided by the ~~replacement~~ third party Supplier; and
 - to use any Deliverables.
- 13.5A The Supplier shall ensure that its employees, contractors, consultants and Subcontractors waive all moral rights they might have in the Project-Specific IPRs and the Deliverables.
- 13.5B In the case of any Supplier Background IPRs licensed by the Supplier from a third party and incorporated or provided in conjunction with or in any Project-Specific IPRs or Deliverable or provided to the Buyer or any Service Recipient in conjunction with the provision of the Services, the Supplier warrants that it will have obtained any necessary authority, permission or licence from the relevant third party to grant a licence in the same terms as set out in clause 13.1A, and 13.5, as applicable above (save as may be expressly agreed by the Parties in accordance with this clause 13.5B).
- 13.6 The Buyer grants the Supplier a non-exclusive, non-assignable, royalty-free licence to use the Buyer Background IPRs, the Buyer Data and the Project-Specific IPRs during the term of the Call-Off Contract for the sole purpose of enabling the Supplier to provide the Services.
- 13.7 The Buyer gives no warranty as to the suitability of any IPRs licensed to the Supplier hereunder. Any such licence:

- includes the right to grant sub-licences to Subcontractors engaged in providing any of the Services (or part thereof) provided that any such Subcontractor has entered into a confidentiality undertaking with the Supplier on the same terms as in clause 11 (Confidentiality) and that any such subcontracts will be non-transferable and personal to the relevant Subcontractor; and
- is granted solely to the extent necessary for the provision of the Services in accordance with the Call-Off Contract. The Supplier will ensure that the Subcontractors do not use the licensed materials for any other purpose.

13.8 At the end of the term of the Call-Off Contract, the Buyer grants to the Supplier a licence to use the Project-Specific IPRs (excluding any information which is the Buyer's Confidential Information or which is subject to the Data Protection Legislation) on the terms of the Open Government Licence v3.0.

13.9 Subject to the above Clause, the Supplier will ensure that no unlicensed software or open source software (other than the open source software specified by the Buyer) is interfaced with or embedded within any Buyer Software or Deliverable unless the Buyer gives its prior approval in writing.

13.10 Before using any third-party IPRs related to the supply of the Services, the Supplier will submit to the Buyer for prior written approval, all details of any third-party IPRs the Buyer requests.

13.11 Where the Supplier is granted permission to use third-party IPRs in a request for approval, the Supplier will ensure that the owner of such third-party IPRs grants to the Buyer a licence on the terms informed to the Buyer in the request for approval. If the proposed licence terms are not acceptable to the Buyer (acting reasonably), the Supplier shall use its best endeavours to procure amendments to the licence terms so as to render them acceptable to the Buyer, or shall use its best endeavours to source alternative third party IPRs or Supplier proprietary products to fulfil the same requirements on licence terms which are reasonably acceptable to the Buyer. If the Supplier is unable to procure a licence on terms which are acceptable to the Buyer then the Supplier shall not use such third-party IPRs in relation to the provision of the Services.

13.12 If the third-party IPR is made available on terms equivalent to the Open Government Licence v3.0, the request for approval will be agreed and the Supplier will buy licences under these terms. If not, and the Buyer rejects the Request for Approval, then the Call-Off Contract will need to be varied in accordance with Clause 31 (Contract changes)~~30 'Changes to Services'~~.

13.13 The Supplier will, on written demand, fully indemnify the Buyer, the Service Recipients and the Crown for all losses which it may incur at any time as a result

of any claim (whether actual alleged asserted and/or substantiated and including third party claims) that the rights granted to the Buyer and the Service Recipients in accordance with the Call-Off Contract or the performance by the Supplier of the provision of the Services or the possession or use by the Buyer or any Service Recipient of the Services or Deliverables delivered by the Supplier, including the publication of any Deliverable that is software as open source, infringes or allegedly infringes a third party's Intellectual Property Rights (an 'IPR Claim').

13.14 Clause 13.13 will not apply if the IPR Claim arises from:

- designs supplied by the Buyer;
- the use of data supplied by the Buyer which is not required to be verified by the Supplier under any provision of the Call-Off Contract; or
- other material provided by the Buyer necessary for the provision of the Services.

13.15 The indemnity given in Clause 13.13 will be uncapped.

13.16 The Buyer will notify the Supplier in writing of the IPR Claim made against the Buyer or any Service Recipient and the Buyer will not make any admissions which may be prejudicial to the defence or settlement of the IPR Claim. The Supplier will at its own expense conduct all negotiations and any litigation arising in connection with the IPR Claim provided always that the Supplier:

- consults the Buyer on all substantive issues which arise during the conduct of such litigation and negotiations;
- takes due and proper account of the interests of the Buyer;
- considers and defends the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Buyer into disrepute; and
- does not settle or compromise the IPR Claim without the prior approval of the Buyer (such decision not to be unreasonably withheld or delayed).

13.17 If an IPR Claim is made (or in the reasonable opinion of the Supplier is likely to be made) in connection with the Call-Off Contract, the Supplier will, at the Supplier's own cost and expense and subject to the prompt written approval of the Buyer:

- modify the relevant part of the Services or Deliverables without reducing their functionality or performance, or substitute Services or Deliverables of equivalent functionality or performance, to avoid the infringement or the alleged infringement, provided that there is no additional cost or burden to the Buyer; or

- obtain a licence to use and supply the Services or Deliverables, which are the subject of the alleged infringement, on terms that are consistent with the Call off Contract, in which case clause 13.10 shall apply.

13.18 If an IPR Claim is made (or in the reasonable opinion of the Supplier is likely to be made) against the Supplier, the Supplier will immediately notify the Buyer in writing.

13.19 If the Supplier does not comply with provisions of ~~this~~ Clause 13.17 within 20 Working Days of receipt of notification by the Supplier from the Buyer under clause 13.16 or receipt of the notification by the Buyer from the Supplier under clause 13.18 (as appropriate), the Buyer may terminate the Call-Off Contract for Material Breach and the Supplier will, on demand, refund the Buyer with all monies paid for the Service or Deliverable that is subject to the IPR Claim.

13.20 The Supplier will have no rights to use any of the Buyer's names, logos or trademarks (or those of the Service Recipients) without the Buyer's prior written approval.

13.21 The Supplier will, as an enduring obligation throughout the term of the Call-Off Contract where any software is used in the provision of the Services or information uploaded, interfaced or exchanged with the CCS or Buyer systems, use software and the most up-to-date antivirus definitions from an industry-accepted antivirus software vendor. It will use the software to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between CCS or the Buyer, and the Supplier).

13.22 If Malicious Software is found, the Supplier will co-operate with the Buyer to reduce the effect of the Malicious Software. If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, the Supplier will use all reasonable endeavours to help the Buyer to mitigate any losses and restore the provision of the Services to the desired operating efficiency as soon as possible.

13.23 Any costs arising from the actions of the Buyer or Supplier taken in compliance with the provisions of the above clause, and clause 20.3, will be dealt with by the Buyer and the Supplier as follows:

- by the Supplier, where the Malicious Software originates from the Supplier Software or the Buyer Data while the Buyer Data was under the control of the Supplier, unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier.

- by the Buyer if the Malicious Software originates from the Buyer Software or the Buyer Data, while the Buyer Data was under the control of the Buyer.

13.24 All Deliverables that are software shall be created in a format, or able to be converted into a format, which is suitable for publication by the Buyer as open source software, unless otherwise agreed by the Buyer.

13.25 Where Deliverables that are software are written in a format that requires conversion before publication as open source software, the Supplier shall also provide the converted format to the Buyer unless the Buyer agrees in advance in writing that the converted format is not required.

G. Clause 14 shall be amended as follows:

14. Data Protection and Disclosure

14.1 The Parties will comply with the Data Protection Legislation and agree that the Buyer is the Controller and the Supplier is the Processor. The only processing the Supplier is authorised to do is listed at Schedule 9 unless Law requires otherwise (in which case the Supplier will promptly notify the Buyer of any additional processing if permitted by Law).

14.2 The Supplier will provide all reasonable assistance to the Buyer to prepare any Data Protection Impact Assessment before commencing any processing (including provision of detailed information and assessments in relation to processing operations, risks and measures) ~~and~~.

14.2A The Supplier must notify the Buyer immediately if it considers that any of the Buyer's instructions infringe the Data Protection Legislation.

14.3 The Supplier must have in place Protective Measures, which have been reviewed and approved by the Buyer as appropriate, to guard against a Data Loss Event, which take into account the nature of the data, the harm that might result from a Data Loss Event, the state of technology and the cost of implementing the measures.

14.4 The Supplier will ensure that the Supplier Personnel only process Personal Data in accordance with this Call-Off Contract and take all reasonable steps to ensure the reliability and integrity of Supplier Personnel with access to Personal Data, including by ensuring they:

- i) are aware of and comply with the Supplier's obligations under this Clause;

- ii) are subject to appropriate confidentiality undertakings with the Supplier or relevant Subprocessor
- iii) are informed of the confidential nature of the Personal Data and don't publish, disclose or divulge it to any third party unless directed by the Buyer in writing or in accordance with this Call-Off Contract
- iv) are given adequate training in the use, protection and handling of Personal Data

14.5 The Supplier will not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Buyer has been obtained and the following conditions are met:

- i) the Buyer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Buyer;
- ii) the Data Subject has enforceable rights and effective legal remedies;
- iii) the Supplier 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 Buyer in meeting its obligations); and
- iv) the Supplier complies with any reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data

14.6 The Supplier will delete or return the Buyer's Personal Data (including copies) if ~~requested~~ as specified in writing by the Buyer at the termination or expiry of this Call-Off Contract, unless required to retain the Personal Data by Law.

14.7 The Supplier will notify the Buyer immediately, and in any event within 24 hours, if it receives: (i) any communication from a third party relating to the Parties' obligations under the Data Protection Legislation; (ii) a Data Subject Access Request (or purported Data Subject Access Request); (iii) a request to rectify, block or erase any Personal Data; (iv) any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Call-Off Contract; or (v) a request from a third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law, or it becomes aware of a Data Loss Event, and will provide the Buyer with full and ongoing assistance in relation to each Party's obligations under the Data Protection Legislation in accordance with any timescales reasonably required by the Buyer, including by promptly providing:

- i) the Buyer with full details and copies of the complaint, communication or request;
- ii) such assistance as is reasonably requested by the Buyer to enable the Buyer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- iii) the Buyer, at its request, with any Personal Data it holds in relation to a Data Subject;
- iv) assistance as requested by the Buyer following any Data Loss Event;
- v) assistance as requested by the Buyer with respect to any request from the Information Commissioner's Office, or any consultation by the Buyer with the Information Commissioner's Office.

14.7A The Supplier's obligation to notify under clause 14.7 shall include the provision of further information to the Buyer in phases, as details become available.

14.8 The Supplier will maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- i) the Buyer determines that the processing is not occasional;
- ii) the Buyer 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; and
- ii) the Buyer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

14.9 Before allowing any Subprocessor to process any Personal Data related to this Call-Off Contract, the Supplier must:

- i) notify the Buyer in writing of the intended Subprocessor and processing;
- ii) obtain the prior written consent of the Buyer;
- iii) enter into a written agreement with the Subprocessor which is no less protective of the Personal Data as the terms set out in this Clause 14;
and
- iv) provide the Buyer with such information regarding the Sub-processor as the Buyer may reasonably require., and

14.9A The Supplier shall remain fully liable for the acts and omissions of any Subprocessor.

14.10 The Parties agree to take into account any guidance issued by the Information Commissioner's Office. The Buyer may amend this Call-Off Contract on not less than 30 Working Days' notice to the Supplier to ensure that it complies with any guidance issued by the Information Commissioner's Office.

14.11 The Buyer 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).

14.12 Subject to a maximum amount of £5,000,000 per event or series of connected events (which amount shall be separate from, and shall not count towards, the limitation of liability set out in Clause 34.3), the Supplier shall indemnify and hold harmless the Buyer and Service Recipients against all Losses arising from or incurred by reason of any wrongful Processing of any Personal Data by the Supplier or any Subprocessor or breach of the Supplier's obligations under this clause 14 provided that, in respect of any claims against the Authority by affected individuals, the Authority shall consult with the Supplier in relation to the settlement of any such claim.

H. New clauses 20A and 20B shall be added:

20A.1. Performance Monitoring

20A.1.1 At the end of each monthly period during the Term, the Supplier shall provide the Buyer with a report which summarises the performance of the

Supplier against each of the aspects more particularly described in Clause 20A.1.2 below (the "**Performance Monitoring Report**").

20A.1.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and shall contain, as a minimum, the following information:

- (a) the actual performance achieved over the applicable monthly period, and that achieved over the previous 3 monthly periods;
- (b) a summary of all Failures that occurred during the applicable monthly period;
- (c) the severity level in respect of each Failure which occurred during the applicable monthly period;
- (d) which Failures remain outstanding from the previous Performance Monitoring Reports and progress in resolving such failures;
- (e) the cause of the relevant Failures and previous unresolved Failures and the action being taken to reduce the likelihood of recurrence;
- (f) the Parties shall agree a plan for the rectification of the Failures (as outlined in the Performance Monitoring Report) ("**Rectification Plan**");
- (g) a summary of the Supplier's progress in implementing an agreed Rectification Plan;
- (h) for any Failures that have been repeated, actions taken to resolve the underlying cause and prevent recurrence;
- (i) the conduct and performance of any agreed periodic tests that have occurred;
- (j) relevant particulars of any aspects of the Supplier's performance which fail to meet the requirements of this Agreement; and
- (k) such other details as the Buyer may reasonably require from time to time.

(l) The Supplier's reports will include financial spend to date and revised forecast financial information for the remainder of the period in relation to:

- Each SOW;
- Each project;
- All projects combined for each SOW;
- All SOWs combined against the contract value;

And shall:

- Adapt to further requirements from the programme board/Cabinet Office/ HM Treasury;
- Report to show delivery progress, effort to completion, confidence on achieving the targets, risks/issues with proposed mitigation actions and,
- Meet reporting formats agreed with the Buyer.

For the purposes of this clause 20A.1, the term "Failure" shall mean a failure to provide any of the Services in accordance with this Call-Off Contract.

20A.2 Review Meetings

The Parties shall attend meetings on a monthly basis (unless otherwise agreed) to review the Performance Monitoring Reports ("**Performance Review Meeting**"). The Performance Review Meetings shall (unless otherwise agreed):

- (a) take place within 5 Working Days of the Performance Monitoring Report being issued by the Supplier;
- (b) take place at such location and time (within normal business hours) as the Buyer shall reasonably require (unless otherwise agreed in advance); and
- (c) be attended by an authorised Supplier representative and an authorised Buyer representative.

20B Knowledge Transfer

For the purposes of this clause 20B, the term "Additional Supplier" shall have the same meaning ascribed to it as in paragraph 1.1 of Schedule 10 (Collaboration).

20B.1 The Supplier shall, for the duration of the Call-Off Contract, provide for the transfer to the Buyer and/or any Additional Suppliers of necessary

knowledge reasonably required for the provision of the Services or services equivalent to them (whether by the Buyer or any Additional Suppliers).

- 20B.2** To facilitate the transfer of knowledge from the Supplier to the Buyer and/or any Additional Suppliers, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Buyer and/or any Additional Suppliers.
- 20B.3** The information which the Supplier shall provide to the Buyer and/or any Additional Suppliers pursuant to clause 20B.1 and 20B.2 shall include:
- (a) copies of up-to-date procedures and operations manuals;
 - (b) product information;
 - (c) agreements with third party suppliers of goods and services;
 - (d) key support contact details for third party supplier personnel;
 - (e) information regarding any unresolved Failures (as defined in clause 20A.1);
 - (f) details of physical and logical security processes and tools which will be available to the Buyer and/or any Additional Suppliers; and
 - (g) any relevant interface information.
- 20B.4** On termination or expiry of the Call-Off Contract, at the Buyer's request the Supplier shall:
- 20B.4.1** in addition to the obligations set out in clauses 20B.1, 20B.2 and 20B.3 above, grant any agent or personnel (including employees, consultants and suppliers) of the Buyer and/or any replacement Supplier access, during business hours and upon reasonable prior written notice, to any of the Supplier's premises for the purposes of effecting a prompt knowledge transfer;
- 20B.4.2** provide to the Buyer agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or any replacement Supplier; and
- 20B.4.3** provide key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer and/or any replacement supplier;

provided that any such agent or personnel (including employees, consultants and suppliers) having access to any of the Supplier's premises pursuant to this clause 20B.4 shall:

- (a) sign a confidentiality undertaking in favour of the Supplier (in such a form as the Supplier shall reasonably require); and
- (b) during each period of access comply with the security, systems and facilities operating procedures as required at the Supplier's premises and that the Buyer deems reasonable.

20B.4.4 The Buyer and/or the replacement supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

I. Clause 24.6 shall be amended as follows:

24.6 Termination or expiry of the Call-Off Contract will not affect:

- any rights, remedies or obligations accrued under the Call-Off Contract prior to termination or expiration;
- the right of either Party to recover any amount outstanding at the time of such termination or expiry;
- the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses:
 - 8 - Payment Terms and VAT
 - 9 - Recovery of Sums Due and Right of Set-Off
 - 11 - Confidentiality
 - 12 - Conflict of Interest
 - 13 - Intellectual Property Rights
 - 20B – Knowledge Transfer
 - 24 - Consequences of Termination
 - 28 - Staff Transfer
 - 34 - Liability
 - 35 - Waiver and cumulative remedies
- any other provision of the Framework Agreement or the Call-Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry will survive the termination or expiry of the Call-Off Contract.

J. Clause 31.1 shall be amended as follows:

31.1 All changes to the Call-Off Contract ~~which cannot be accommodated informally as described in Clause 30~~ will require a Contract Change Note.

K. Clause 34.3 shall be amended as follows:

34.3 Subject to the above and to Clause 14.12, each Party's total aggregate liability relating to all Losses due to a Default in connection with this agreement:

- resulting in direct loss or damage to physical Property (including any technical infrastructure, assets or Equipment) of the other Party, will be limited to the sum of £1,000,000 in each Call-Off Contract year in which the Default occurs, unless otherwise stipulated by the Buyer in a Further Competition procedure
- ~~subject to the first bullet point in this Clause 34.3 which occur in the first 6 months, will be limited to the greater of the sum of £500,000 or a sum equal to 200% of the estimated Call Off Contract Charges for the first six months~~
- ~~subject to the first bullet point in this Clause 34.3 which occur during the remainder of the Call Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call Off Contract Charges paid, due or which would have been payable under the Call Off Contract in the 6 months immediately preceding the event giving rise to the liability~~
- ~~subject to the first bullet point in this Clause 34.3 which occur after the end of the Call Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call Off Contract Charges paid, due or which would have been payable under the Call Off Contract in the 6 months immediately before the end of the Call Off Contract period.~~ will be limited to the greater of the sum of £1,000,000 or a sum equal to 200% of the Call-Off Contract Charges paid, due or which would have payable.

L. The following definitions in clause 44 shall be amended or added as follows:

'Data Protection Legislation'	i) all applicable Law about the processing of personal data and privacy including if applicable legally binding guidance and codes of practice issued by the Information Commissioner and: before the 25 May 2018,
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	<p>ii) The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003; and</p> <p>from the 25 May 2018,</p> <p>ii) The GDPR, the LED and any applicable national implementing Laws as amended from time to time and</p> <p>iii) (iv) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy.</p>
<u>'Data Subject Access Request'</u>	<u>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.</u>
'Framework Agreement'	The Framework Agreement between CCS and the Supplier for the provision of the Services dated 27/01/2017
<u>'Service Recipients'</u>	<p>a) <u>Environment Agency;</u></p> <p>b) <u>the Rural Payments Agency;</u></p> <p>c) <u>Natural England;</u></p> <p>d) <u>the Animal and Plant Health Agency; and</u></p> <p>e) <u>the Marine Management Organisation,</u></p> <p><u>each being a "Service Recipient";</u></p>

Specific terms:

Clause	Minimum number of days held within the Call-Off Contract
6 Warranties,	Remains Ninety (90) Days from

representations and acceptance criteria	date of Buyer acceptance of release
22 Managing Disputes	Remains various shown within the Call-Off Contract terms
23 Termination	Remains various shown within the Call-Off Contract terms
32 Force Majeure	Remains Fifteen (15) consecutive Calendar Days
34 Liability	Remains various shown within the Call-Off Contract terms

Formation of Contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A), the Schedules (Part B) and the Call-Off Contract terms and conditions (Part C) and by signing below agree to be bound by this Call-Off Contract.
- 1.3 In accordance with the Further Competition procedure set out in Section 3 of the Framework Agreement, this Call-Off Contract will be formed when the Buyer acknowledges the receipt of the signed copy of the Order Form from the Supplier (the "Call-Off Effective Date").
- 1.4 The Call-Off Contract outlines the Deliverables of the agreement. The Order Form outlines any amendment of the terms and conditions set out in Part C. The terms and conditions of the Call-Off Contract Order Form will supersede those of the Call-Off Contract standard terms and conditions.
2. **Background to the agreement**
 - (A) The Supplier is a provider of digital outcomes and specialists services and undertook to provide such Services under the terms set out in Framework Agreement number RM1043iv (the "Framework Agreement").
 - (B) The Buyer served an Order Form for Services to the Supplier on the Order Date stated in the Order Form.
 - (C) The parties intend that this Call-Off Contract will not itself oblige the Buyer to buy or the Supplier to supply the Services. Specific instructions and requirements will have contractual effect on the execution of an SOW.

SIGNED:

	Supplier:	Buyer:
Name:	[REDACTED]	[REDACTED]
Title:	[REDACTED]	[REDACTED]
Signature:	[REDACTED]	[REDACTED]
Date:	Click here to enter a date.	01/02/2019

Part B - The Schedules

Schedule 1 - Requirements



UniTy Programme UAT Support Service

- Hosting and Application Support
- End User Environment

Brief to Suppliers V2 (v1.0)

Defra Group Reference No: 23797

October 2018

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Version 1.0

1. Purpose

- 1.1 The purpose of this document is to communicate the procurement route and the Buyer's requirements for the procurement of a User Acceptance Testing (UAT) Support Service. For the purposes of this procurement, the 'Buyer' shall be the Department for Environment, Food and Rural Affairs ('Defra'), the terms 'Buyer' and 'Authority' are used interchangeably.
- 1.2 This document should be read in conjunction with the '**UAT Support Service 2018_Instructions_to_suppliers V2**' and will be updated with timetable amendments during the process.
- 1.3 The UAT Support Service is being procured under CCS framework agreement RM1043iii Lot 1 Digital Outcomes. The price basis for this contract is capped time and materials (T&M). The expected contract duration is 18 months, with an option to extend for a period of up to a further 12 months. The total contract duration will not exceed two years and 6 months.
- 1.4 The framework permits the Buyer to insert additional terms in the call-off contract. The additional terms to be inserted for this procurement are as follows:

New Clauses

1. The Parties acknowledge that an agile methodology is not appropriate for the purposes of this Call Off Contract and any Statement of Work.
2. Where any aspect of the Services is to be carried out at a premises belonging to a third party, the Supplier shall and shall procure that the Supplier Staff shall comply with any and all instructions, policies and directions of such third party.
3. The Supplier acknowledges that:
 - a. The Buyer is procuring services on behalf of itself and Environment Agency, the Rural Payments Agency, Natural England, the Animal and Plant Health Agency and the Marine Maritime Organisation (the "**Service Recipients**"); and
 - b. Subject to the Clause 33, Losses suffered by a Service Recipient that are caused by a Default of the Supplier shall be deemed to be Losses that have been suffered by, and which are recoverable by, the Buyer.
4. Insurance limits
 - a. Third party public and products liability insurance - sufficient insurance to cover liability for damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, minimum of £5,000,000
 - b. Professional indemnity insurance - £1,000,000 in respect of any one claim.

Amended Clauses

1. Clause 29.1 to be replaced with 'NOT USED'.
2. Clause 29.2 to be replaced with 'NOT USED'.

3. Clause 30 to be replaced with 'All changes to this Call-Off Contract will require a Contract Change Note.'

- 1.5 The timetable for this procurement is as follows:

Activity	Date
Authority invites shortlisted suppliers to submit written proposal including references	2 October 2018
Deadline for submission of written proposals	12 noon 12 October 2018
Evaluation and contract award	15 October to 01 November 2018
Notify successful/unsuccessful suppliers	02 November 2018
Contract signature and on-boarding of successful service provider	05 November to 16 November 2018

Contract Requirements

2. Background

- 2.1. For the purposes of this UAT Support Service procurement, the Authority shall be Defra and the 'Defra Group' term will be used to describe the six in scope organisations which cover the majority of its people organisation and ICT spend. These are Defra, the Environment Agency (EA), Natural England (NE), Rural Payments Agency (RPA), Animal and Plant Health Agency (APHA) and Marine Management Organisation (MMO). Whilst currently there are no plans to expand this scope to other organisations in the Defra Group, those organisations may choose to take services under the proposed contract at a later date.
- 2.2. Further information can be obtained on all of these organisations via the following link:
<https://www.gov.uk/government/organisations#department-for-environment-food-rural-affairs>
- 2.3. The Defra Group makes significant use of ICT services in the delivery of its wider strategic objectives. The two largest ICT contracts supporting these services are due to expire in 2021. The Defra UniTy Programme (DUP) was commissioned with addressing how Defra might exploit this opportunity to generate savings and improve ICT services for its uses. Further, it is now tasked with delivering these opportunities transitioning services from Capgemini and IBM to the new UniTy supplier base through a number of difference service and technology workstreams including Service Management, Systems Integration and Platforms, Connectivity, End User Environment and Hosting and Application Support.
- 2.4. The UAT Support Service is intended to support the Authority and new suppliers of UniTy services to ensure continued access to, and availability of, the UniTy services during the period of implementation. The implementation phase will involve the cut over of services to new UniTy suppliers and service models.
- 2.5. The Authority is seeking a trusted partner to lead, shape and manage the successful delivery of UAT across the Defra Group and UniTy procurements. The initial and most significant users of the UAT Support Services will be the Hosting and Applications Support workstream and the End User Environment workstream. There is the expectation that the UAT Support Service could be further leveraged as required to support a broader range and scope of UniTy services.
- 2.6. To mitigate the risk of disruption to the business, a UAT process is needed, which will build on the technical testing that will be performed by the new UniTy suppliers. This procurement is to contract with a provider to conduct end to end management of the UAT of the Authority's applications and End User Environment services.

3. Overview

- 3.1. The existing IBM eNabling agreement and Capgemini MSA agreements provide Defra with a number of Hosting Applications and End User services. These applications and services are due to be disaggregated to the new supply chain and, in order to successfully migrate these services to the new UnlTy suppliers, UAT will be required.
- 3.2. There are approximately 200 applications/services to be migrated and approximately 20,000 End Users. To mitigate the risk of disruption to the business a UAT process is needed which will build on the technical testing that will be performed by the new UnlTy suppliers.
- 3.3. The requirement is for the Supplier to provide end to end management of the UAT process. The Authority holds limited testing collateral; the 'stand-up scripts' to be used during migration do not offer the level of functional coverage needed to fully mitigate the business risk. The execution of the UAT of each relevant application/service will be conducted by nominated user representatives, as they are the business experts and best placed to maximise value from test execution.
- 3.4. The detailed migration plans and approach are currently under development, once available they will be shared with the successful UAT partner and resourced accordingly.

4. Objectives, approach and constraints

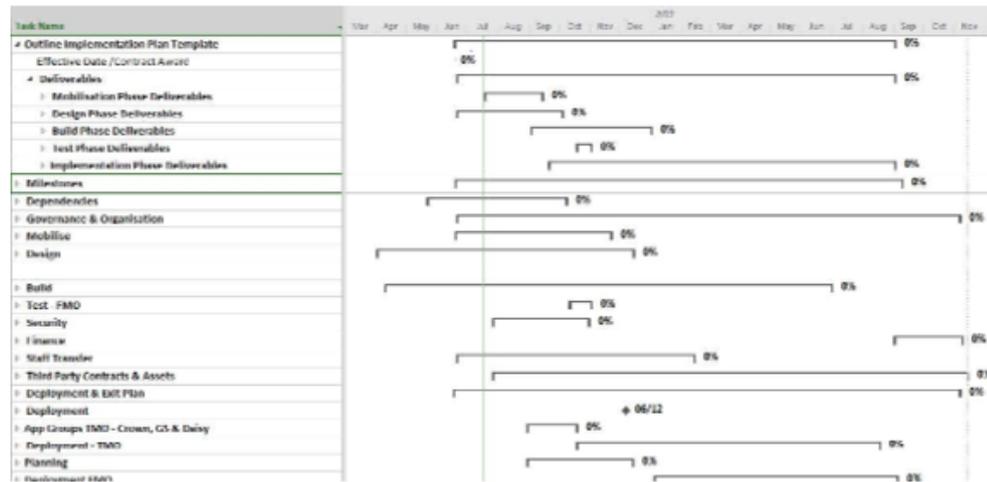
- 4.1. The overriding objective of the UAT Support Service is to provide end to end management of the UAT process on behalf of the Authority such that the Authority's internal business stakeholders are assured that their applications and end user services operate correctly both during and following implementation of the new UnITy services.
- 4.2. There are 200 applications/services within the scope of the UAT process and 20,000 end users consuming a number of desktop deployed applications and services.
- 4.3. The Authority anticipates that the UAT process will reflect the business criticality of the application/service and that sufficient testing will be performed to give application/service owners the required assurance.
- 4.4. The Supplier will be responsible for reviewing the criticality assessment and recommending a UAT approach based on business criticality. For information, the following provides an approximate breakdown:

	No of apps	Number of apps with > 500 users	Number of apps with < 500 users
Bronze	68	33	35
Gold	22	18	4
Hosting Only	100	24	76
Silver	10	8	2
Total	200	83	117

- 4.5. The focus is therefore expected to be on areas most likely to fail such as interfaces, roles-based access, reporting and printing. The testing will build upon the technical testing carried out by the new UnITy suppliers. The detail of new UnITy supplier's test approach and plans will be made available to the Supplier in quarter 4 of 2018.
- 4.6. The UAT process needs to consider:
 - a) The new UnITy supplier's test approach, which will include individual application test plans for functional-level testing
 - b) UAT scripts could be dependent on applications that are not migrated together, for example, business functions across interface boundaries,
 - c) The execution window will be constrained by migration type,
 - d) Use of test data in the live environment needs to be very carefully controlled.

4.7. The majority of user workshops would occur in London. However, some users are located outside London, therefore travel to locations such as Reading, Newcastle, Bristol, Birmingham and York may be required.

4.8. The UAT process must occur within the overall project plan, depicted below:



5. Service duration and deliverables

- 5.1. The planning for the implementation of the new UnlTy suppliers is underway and relevant documents will be made available to the Supplier throughout the project lifecycle.

6. Requirements List

ID	Requirements
1	Overview
1.1	The Supplier shall define, implement and manage an end-to-end UAT process with the objective of assuring the Authority that the Authority Applications/Services operate correctly during and following implementation of the new UniTy Services
1.2	The Supplier shall participate in an on-boarding workshop (post-contract award) where the Authority will inform the Supplier of the status of the new UniTy services and provide relevant project documentation. The update meeting will be arranged by the Authority and held on the fourth working day following the commencement of the contract.
1.3	The Supplier shall undertake assessments of the Authority Applications/Services and recommend a UAT approach based on those assessments.
1.4	The Supplier shall define, document and submit a Master UAT Framework to the Authority for review and approval that takes into account the objectives, approach, constraints and timescales outlined in sections 3, 4 and 5.
1.5	The Supplier shall implement and manage the UAT process that will report into the overarching UniTy governance model, in accordance with the approved Master UAT Framework.
1.6	The Supplier shall escalate issues and risks related to the UAT process to the Authority Project Manager promptly and in any event within 2 Working Days or at the next weekly meeting, whichever is sooner.
1.7	The Supplier shall work with the Authority resources throughout the UAT process to ensure UAT planning and execution aligns with the UniTy implementation plans.
1.8	The Supplier shall submit Deliverables to the Authority in accordance with timescales set out in section 7 and adhere to the Review Process described in section 7.2.
1.8.1	The Supplier shall submit Deliverables listed in section 7.1 for the Authority's review and approval.
1.8.2	The Supplier shall submit Deliverables listed in section 7.3 to the Authority for its information.
2	UAT Preparation, Execution and Reporting
2.1	The Supplier shall lead, facilitate and record the outcomes of the UAT workshops in accordance with the approved Master UAT Framework.
2.2	The Supplier shall identify UAT scenarios and define test cases for each Application/Service and incorporate the outcomes of the UAT workshops in the UAT Test Plans.
2.3	The Supplier shall make a recommendation to the Authority for the required test data for each Application/Service Migration Bundle (the " Test Data Recommendation ") in accordance with the timetable in the approved Master UAT Framework.

ID	Requirements
2.4	The Supplier shall define, document and submit a UAT Test Plan for each Application/Service Migration Bundle for review and approval by the Authority.
2.5	The Supplier shall prepare the Test Specification for each Application/Service Migration Bundle and submit to the Authority for Approval.
2.6	The Supplier shall co-ordinate the execution of UAT for each Application/Service Migration Bundle.
2.7	The Supplier shall maintain the audit trail during the UAT process.
2.8	The Supplier shall develop and maintain a Defect Log for each Application/Service Migration Bundle during the execution of the UAT process.
2.9	The Supplier shall provide a copy of the Defect Log to the Authority at the conclusion of testing for each Application/Service Migration Bundle.
3.0	The Supplier shall define, develop and submit a Test Report for each Application/Service Migration Bundle within five (5) working days of the conclusion of the tests for the relevant Application/Service Migration Bundle.
4.0	Test Collateral
4.1	The Supplier shall collate and configuration manage all Test Collateral into the Authority-provided Test Management Tool.
4.2	The Supplier shall input all Test Collateral into the Test Management Tool on a monthly basis, as a minimum.
5.0	Governance
5.1	The Supplier shall submit Progress Reports to the Authority's Project manager on a weekly basis.
5.2	The Supplier shall participate in weekly checkpoint meetings and fortnightly working group sessions in London to keep the Authority informed of progress and escalate risks and issues
5.3	The Supplier's Staff shall be Baseline Personnel Security Standard (BPSS) cleared (via Disclosure Scotland) and sign a confidentiality agreement prior to commencing delivery of the Services. Annex C contains the template confidentiality agreement.
5.4	The Supplier shall comply with all CESG Good Practice Guidance commensurate with Official/Official Sensitive data handling.

7. Deliverables

7.1 Deliverables for Authority review and approval

Stage	Requirement cross-reference	Deliverable	Deliverable date (contract start date is the effective date = ED)	Duration for Authority review and approval	Deliverable date for re-submitted items commencing from Authority advice of non-approval
Project Kick Off	1.4	UAT Master Framework	ED + 10 days	10 days	5 days
Project Kick Off	1.8	Exit Plan	ED + 30 days	10 days	5 days
UAT Preparation	2.4	UAT Test Plans (per Application Migration Bundle)	in accordance with (IAW) the approved UAT Master Framework	10 days	5 days
UAT Preparation	2.5	Test Specifications (per Application Migration Bundle)	IAW approved UAT Master Framework	5 days	5 days
UAT Execution	3.0	Test Reports (per Application Migration Bundle)	IAW approved UAT Master Framework	5 days	5 days
Closure	1.8	Closure Report	+2 days post Project Complete	5 days	5 days

7.2 Review Process

7.2.1 For the Deliverables listed in section 7.1, the Authority will advise the Supplier, in writing, whether the submitted Deliverable has been approved or not approved.

- (i) Where a Deliverable is not approved:

- a. The Authority will advise the Supplier in writing of the reason(s) and detail the corrective action to be taken by the Supplier before the Deliverable will be reconsidered
- b. The Supplier shall (at no additional cost to the Authority) re-submit the rectified Deliverable to the Authority for review and approval.
- c. The timescales in section 7.1 shall apply for each review and approval cycle, both for initial and any re-submissions of Deliverables.
- (ii) The Authority will withhold approval of a Deliverable, only if, in the judgement of the Authority, the Deliverable submitted:
- Is not clearly understandable;
 - Does not provide adequate detail;
 - Is inconsistent with the Call-off Contract; or
 - Does not meet the purpose of the item as described in the Definitions.

7.3 Deliverables for information

Stage	Requirement cross-reference	Deliverable	Deliverable date (contract start date is the effective date = ED)
UAT Preparation	2.3	Test Data Recommendation (per Application/Services Migration Bundle)	IAW approved UAT Master Framework
UAT Execution	2.9	Defect Log (per Application/Services Migration Bundle)	IAW approved UAT Master Framework
Throughout Engagement	5.1	Progress Reports	ED + 10 days; weekly thereafter

8. Definitions

Application/Service Migration Bundles	Groups of Authority Applications/Services that will be migrated in sequenced waves/events. The content of these bundles will be disclosed to the Supplier during the UAT planning phase.
Authority Applications	The applications identified in Annex A to this document
Authority Resources	Two individuals from the Authority's internal testing organisation.
Closure Report	A document that summarises the outcomes delivered under the Call Off Contract, highlight any outstanding risks or issues, make recommendations for any future, similar UAT exercises and confirms that the Supplier has met all the requirements and deliverables in the Call Off Contract.
Defect Log	A log for the recording of test issues and defects.
Deliverables	The artefacts listed in section 7 and any other item that is produced in accordance with the Master UAT Framework.
Exit Plan	<p>A document required that sets out sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Authority and/or its Replacement Supplier prior to or on the expiry or termination of the Contract. The Exit Plan shall also include:</p> <ul style="list-style-type: none"> • details relating to the current status of Call Off Contract performance, including in relation to progress against the Master UAT Framework; • all Test Collateral, whether in draft or approved form; • all information, data and other material that the Supplier holds in relation to this Call Off Contract.
Master UAT Framework	<p>A document that details:</p> <ol style="list-style-type: none"> a) the approach to UAT b) an overview of how testing will be conducted c) stakeholder management, user workshops, communication planning d) UAT process timetable, milestones and acceptance criteria, e) the process to be used to capture and record test results and the categorisation of test issues; f) the procedure to be followed if an application fails to satisfy the test success criteria or produces unexpected

	<p>results, including a procedure for the resolution of test issues;</p> <p>g) the procedure to be followed to sign off each test;</p> <p>h) the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports and the Defect Log, and a sample plan for the resolution of test issues;</p> <p>i) a high level identification of the resources required for testing, including facilities, infrastructure, personnel and Authority involvement in the conduct of the tests;</p> <p>j) the technical environments required to support the tests; and</p> <p>k) the procedure for managing the configuration of the test environments.</p>
Progress Reports	<p>A document that describes the current status of the Supplier's performance against the Call Off Contract, including:</p> <ul style="list-style-type: none"> • progress from previous reports • activities during the period • work, deliverables and actions completed during the period • actual or potential problems and a risk update • work planned during next period • status of actual effort/cost against planned effort/cost
Review Process	Means the process described in section 7.2
Test Collateral	All artefacts produced during the UAT process including, as a minimum, all Deliverables.
Test Data Recommendation	Means the recommendation made in accordance with requirement ID 2.3
Test Management Tool	The Authority-licenced tool "HP Quality Centre".
Test Reports	<p>Each Test Report shall provide a full report on the testing conducted in respect of the relevant Application/Services Migration Bundle, including:</p> <p>a) an overview of the testing conducted;</p> <p>b) identification of the relevant test success criteria that have been satisfied;</p> <p>c) identification of the relevant test success criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;</p> <p>d) the tests that were not completed together with the Supplier's explanation of why those tests were not completed; and</p>

	<ul style="list-style-type: none"> e) the specification for any hardware and software used throughout testing and any changes that were applied to that hardware and/or software during testing
Test Specification	<p>A document that includes as a minimum:</p> <ul style="list-style-type: none"> a) the specification of the test data, including its source, scope, volume and management; b) a plan to make the resources available for testing; c) test scripts; d) test pre-requisites; and e) exemplar test results, including a mechanism to be used to capture and record test results.
UAT Test Plan	<p>Each UAT Test Plan shall include as a minimum:</p> <ul style="list-style-type: none"> a) the relevant test definition and the purpose of the test, the Application/Services Migration Bundle to which it relates, the Authority Applications/Services being tested and, for each test, the specific test success criteria to be satisfied; b) a detailed procedure for the tests to be carried out, including: c) the timetable for the tests, including start and end dates; d) any Authority resources, including individuals, to conduct the tests; e) the testing mechanism; f) the mechanism for ensuring the quality, completeness and relevance of the tests; g) the process which the Authority will use to review test issues; h) the test schedule; i) the process for escalating test Issues from a re-test situation to the taking of specific remedial action to resolve the test issue.

9. Authority responsibilities

ID	Requirement
9.1	The Authority will arrange the on-boarding workshop and provide details of the overall UnITy Implementation Plans, current status and other relevant project documentation.
9.2	The Authority will adhere to the Review Process and may not withhold approval of a Deliverable for minor omissions or defects.
9.3	The Authority will provide a document to the Supplier detailing each Application/Services Migration Bundle
9.4	The Authority will facilitate the review and approval process with its internal stakeholders for each UAT Test Plan and Test Specification
9.5	The Authority will provide the test data in accordance with Supplier's Test Specification
9.6	The Authority will execute UAT in accordance with Supplier's UAT Test Plan and Test Specification

Annex A – Authority Applications

The list of applications will be inserted into this document post-contract award.

Annex B - Travel reimbursement

For travel to locations outside of London, the Authority will reimburse travel costs subject to the Defra travel policy, an extract of which is below. Prior to undertaking any travel for which reimbursement will be sought, the Supplier must calculate the anticipated cost and submit the relevant details to the Authority for approval.

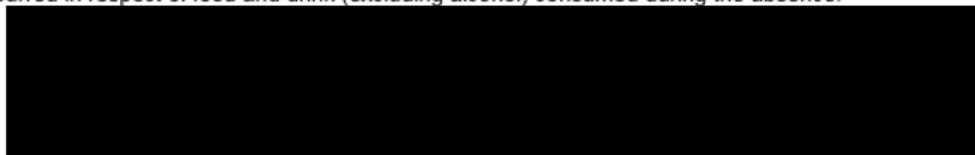
Nil travel or subsistence costs will be reimbursed for any London-based activities.

Mode of Travel

1. If possible travel should be avoided, using telephone or video conferencing instead
 - Air travel between locations on mainland England, Wales and Scotland is not permitted
 - Where travel is unavoidable rail is the preferred means, being lower in carbon emissions than air travel and better value for money, when travel to and from an airport is factored in.
2. All rail travel should be booked as standard-class
3. Advance purchase rail tickets should be purchased when possible and travel should be booked as far ahead as possible in order to obtain the best price. Last minute travel should be avoided as far as business will allow.

Subsistence

4. Reimbursement up to the appropriate ceiling is for additional expenditure necessarily incurred in respect of food and drink (excluding alcohol) consumed during the absence:



5. Only one ceiling rate can be applied in any 24 hour period, they cannot be combined.
6. These rates apply to all areas of the country.

Hotel rates



Annex C – Confidentiality Agreement

Version: 1.0



Confidentiality
Agreement

DATED

DD MONTH 2016

CONFIDENTIALITY AGREEMENT

between

THE SECRETARY OF STATE FOR ENVIRONMENT FOOD AND RURAL AFFAIRS

and

[INSERT COMPANY NAME]

CONTENTS

CLAUSE

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THIS AGREEMENT is dated

PARTIES

- (1) The Secretary of State for Environment Food and Rural Affairs of Nobel House, Smith Square, London SW1P 3JR (**Authority**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Organisation**).

BACKGROUND

- (A) The parties intend to enter into discussions relating to the Purpose in which the Authority may disclose Confidential Information to the Organisation.
- (B) The parties have agreed to comply with this agreement in connection with the disclosure and use of Confidential Information.

AGREED TERMS

1. INTERPRETATION

1.1 Definitions:

Authority Group: the Environment Agency, Natural England, the Animal and Plant Health Agency, the Marine Management Organisation and the Rural Payments Agency and other bodies controlled, sponsored or regulated by the Authority and notified to the Organisation from time to time.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Confidential Information: has the meaning given in clause 2.

Purpose: provision of Financial Audit Services by the Organisation in accordance with Call-off Contract reference 20186.

Representative(s):

1 For the Organisation means:

- (a) its officers and employees who need to know the Confidential Information for the Purpose;
- (b) its professional advisers or consultants who are engaged to advise it in connection with the Purpose;
- (c) the contractors and sub-contractors engaged by it in connection with the Purpose; and
- (d) any other person to whom the Authority agrees in writing that Confidential Information may be disclosed in connection with the Purpose.

2 For the Authority means:

- (a) its officers and employees and those of the Authority Group;
- (b) the professional advisers or consultants who are engaged to advise it and/or the Authority Group in connection with the Purpose;
- (c) the contractors and sub-contractors engaged by it or the Authority Group in connection with the Purpose; and
- (d) employees and officers of other Government departments.

1.2 **Interpretation.**

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes email.
- (d) A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

2. **CONFIDENTIAL INFORMATION**

2.1 **Confidential Information** means all confidential information relating to the Purpose which the Authority or its Representatives directly or indirectly discloses to the Organisation or its Representatives, before or after the date of this agreement. This includes:

- (a) the fact that discussions and negotiations are taking place concerning the Purpose and the status of those discussions and negotiations;
- (b) the existence and terms of this agreement;
- (c) all confidential or proprietary information relating to:
 - (i) plans, intentions, or market opportunities of the Authority; and
 - (ii) the operations, processes, product information, know-how, technical information, designs, trade secrets or software of the Authority;
- (d) any information, findings, data or analysis derived from Confidential Information; and
- (e) any other information that is identified as being of a confidential or proprietary nature

but excludes any information referred to in clause 2.2.

- 2.2 Information is not Confidential Information if:
- (a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Organisation or its Representatives in breach of this agreement (except that any compilation of otherwise public information in a form not publicly known shall still be treated as Confidential Information);
 - (b) it was available to the Organisation on a non-confidential basis prior to disclosure by the Authority;
 - (c) it was, is, or becomes available to the Organisation on a non-confidential basis from a person who, to the Organisation's knowledge, is not under any confidentiality obligation in respect of that information;
 - (d) it was lawfully in the possession of the Organisation before the information was disclosed by the Authority;
 - (e) it is developed by or for the Organisation independently of the information disclosed by the Authority; or
 - (f) the Authority agrees in writing that the information is not confidential.

3. CONFIDENTIALITY OBLIGATIONS

- 3.1 In return for the Authority disclosing Confidential Information to the Organisation, the Organisation undertakes that it shall:
- (a) keep the Confidential Information secret and confidential;
 - (b) not use or exploit the Confidential Information in any way except for the Purpose;
 - (c) not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with this agreement; and
 - (d) not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose. Any such copies, reductions to writing and records shall be the property of the Authority.
- 3.2 The Organisation shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Authority from time to time to safeguard the Confidential Information from unauthorised access or use.

4. PERMITTED DISCLOSURE

- 4.1 The Organisation may disclose Confidential Information to its Representatives on the basis that it:

- (a) informs those Representatives of the confidential nature of the Confidential Information before it is disclosed;
- (b) procures that the Representatives comply with the confidentiality obligations in clause 3.1 as if they were the Organisation; and
- (c) the Organisation shall be liable for the actions or omissions of its Representatives in relation to the Confidential Information as if they were the actions or omissions of the Organisation.

4.2 Subject to the provisions of this clause 4, the Organisation may disclose Confidential Information to the minimum extent required by:

- (d) an order of any court of competent jurisdiction or any judicial, parliamentary, official or regulatory body which has the power to compel disclosure, governmental or similar body or any taxation authority of competent jurisdiction;
- (e) the rules of any listing authority or stock exchange on which its shares are listed or traded; or
- (f) the laws or regulations of any country to which its affairs are subject.

4.3 Before the Organisation discloses any Confidential Information pursuant to clause 4.2, it shall, to the extent permitted by law, use all reasonable endeavours to give the Authority as much notice of this disclosure as possible. Where notice of such disclosure is not prohibited and is given in accordance with clause 4.2, the Organisation shall take into account the Authority's reasonable requests in relation to the content of this disclosure.

4.4 If the Organisation is unable to inform the Authority before Confidential Information is disclosed pursuant to clause 4.2 it shall, to the extent permitted by law, inform the Authority of the full circumstances of the disclosure and the information that has been disclosed as soon as reasonably practicable after such disclosure has been made.

5. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

5.1 If so requested by the Authority at any time by notice in writing to the Organisation, the Organisation shall:

- (a) destroy or return to the Authority all documents and materials (and any copies) containing, reflecting, incorporating or based on the Confidential Information;
- (b) erase all the Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form;

- (c) to the extent technically and legally practicable, erase all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and
- (d) certify in writing to the Authority that it has complied with the requirements of this clause 5.1.

5.2 Nothing in clause 5.1 shall require the Organisation to return or destroy any documents and materials containing or based on the Confidential Information that the Organisation is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The provisions of this agreement shall continue to apply to any documents and materials retained by the Organisation pursuant to this clause 5.2.

6. RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT

6.1 The Authority reserves all rights in its Confidential Information. The Authority's disclosure of Confidential Information does not give the Organisation or any other person any licence or other right in respect of the Confidential Information beyond the rights expressly set out in this agreement.

6.2 Except as expressly stated in this agreement, the Authority makes no express or implied warranty or representation concerning the Confidential Information, including but not limited to the accuracy or completeness of the Confidential Information.

6.3 The Authority's disclosure of Confidential Information does not form any offer by, or representation or warranty on the part of, the Authority to enter into any further agreement with the Organisation.

7. INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that the Authority may have, the Organisation acknowledges and agrees that damages alone would not be an adequate remedy for its breach of any of the terms of this agreement. Accordingly, the Authority is entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this agreement.

8. NO OBLIGATION TO CONTINUE DISCUSSIONS

Nothing in this agreement shall impose an obligation on either party to continue discussions or negotiations in connection with the Purpose, or an obligation on each party, to disclose any information (whether Confidential Information or otherwise) to the other party.

9. ENDING DISCUSSIONS AND DURATION OF CONFIDENTIALITY OBLIGATIONS

- 9.1 If either party decides not to continue to be involved in the Purpose with the other party, it shall notify that other party in writing immediately.
- 9.2 Notwithstanding the end of discussions between the parties in relation to the Purpose pursuant to clause 9.1, the Organisation's obligations under this agreement shall continue in effect for a period of three years from the date of this agreement.
- 9.3 The end of discussions relating to the Purpose shall not affect any accrued rights or remedies to which the Authority is entitled.

10. NO PARTNERSHIP OR AGENCY

- 10.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 10.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

11. GENERAL

- 11.1 **Assignment and other dealings.** The Organisation shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 11.2 **Entire agreement.** This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 11.3 **Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the Authority (or its authorised representatives).
- 11.4 **Waiver.** No failure or delay by the Authority to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.5 **Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is

not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

11.6 Notices.

- (a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.6(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

11.7 Third party rights. No one other than a party to this agreement shall have any right to enforce any of its terms.

11.8 Governing law. This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

11.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

Signed by [name]
for and on behalf of the Authority [title]

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF] Director

Schedule 3 - Statement of Work (SOW), including pricing arrangements and Key Staff

Sch 3.1 SOW Details

Date of SOW:	<i>Please enter the first date (on site)</i>
SOW Reference:	<i>DOS-xxx.</i>
Buyer:	<i>Buyer Full Name</i>
Supplier:	<i>Supplier Full Name</i>
Release Type(s):	<i>Please enter here</i>
Phase(s) of Development:	<i>Choose an item</i>
Release Completion Date:	<i>Please enter the Release Completion Date</i>
Duration of SOW	<i>Please enter the number of days here</i>
Charging Method(s) for this Release:	<i>Choose an item</i>

3.1.1 The Parties will execute a SOW for each release. Note that any ad-hoc Service requirements are to be treated as individual Releases in their own right (in addition to the releases at the delivery stage); and the Parties should execute a separate SOW in respect of each.

3.1.2 The rights, obligations and details agreed by the Parties and set out in this SOW apply only in relation to the Services that are to be delivered under this SOW and will not apply to any other SOW's executed or to be executed under this Call-Off Contract unless otherwise agreed by the Parties.

Sch 3.2 Key Staff

3.2.1 The Parties agree that the Key Staff in respect of this Project are detailed in the table below.

3.2.2 Table of Key Staff:

Name	Role	Details
-------------	-------------	----------------

--	--	--

Sch 3.3 Deliverables

3.3.1 To be added in agreement between the Buyer and Supplier

Sch 3.4 Call-Off Contract Charges

3.4.1. For each individual Statement of Work (SOW), the applicable Call-Off Contract Charges (in accordance with the charging method in the Order Form) will be calculated using all of the following:

- the agreed relevant rates for Supplier staff or facilities, which are inclusive of any applicable expenses and exclusive of VAT and which were submitted to the Buyer during the Further Competition that resulted in the award of this Call-Off Contract.
- the number of days, or pro rata for every part of a day, that Supplier staff or facilities will be actively providing the Services during the term of the SOW.
- a contingency margin of up to 20% applied to the sum calculated on the basis of the above two points, to accommodate any changes to the SOW Deliverables during the term of the SOW (not applicable to Lot 3). The Supplier must obtain prior written approval from the Buyer before applying any contingency margin.

3.4.2 The Supplier will provide a detailed breakdown of rates based on time and materials Charges, inclusive of expenses and exclusive of VAT, with sufficient detail to enable the Buyer to verify the accuracy of the time and material Call-Off Contract Charges incurred.

The detailed breakdown for the provision of Services during the term of the SOW will include (but will not be limited to):

- a role description per Supplier Staff;
- a facilities description;
- the agreed relevant rate per day;
- any expenses charged per day, which are in line with the Buyer's expenses policy (if applicable);
- the number of days, or pro rata for every part day, they will be actively providing the Services during the term of the SOW; and
- the total cost per role / facility

The Supplier will also provide a summary which is to include:

- Total value of this SOW
- Overall Call-Off Contract value
- Remainder of value under overall Call-Off Contract Charge

Where:

Remainder of value under overall Call-Off Contract Charge = overall Call-Off Contract value - sum of total value of all SOWs invoiced

- Whether there is any risk of exceeding Overall Call-Off Contract value (and thereby requiring a Contract Change Note (CCN) to continue delivery of Services)

3.4.3 If a capped or fixed price has been agreed for a SOW:

- The Supplier will continue at its own cost and expense to provide the Services even where the agreed price has been exceeded; and
- The Buyer will have no obligation or liability to pay for the cost of any Services delivered relating to this order after the agreed price has been exceeded.

3.4.4 Risks or contingencies will be included in the Charges. The Parties agree that the following assumptions, representations, risks and contingencies will apply in relation to the Charges. [Insert full details of any assumptions, representations, risks and contingencies which the Parties are relying on in relation to the Charges].

3.4.5 Any changes to the Supplier Staff (not applicable to Lot 3 Services) should be agreed with the Buyer and covered by a separate SOW where it cannot be accommodated within an existing SOW.

3.4.6 Multiple SOWs can operate concurrently.

3.4.7 The Supplier will keep accurate records of the time spent by the Supplier staff in providing the services and will provide records to the Buyer for inspection on request (not applicable to Lot 3 Services)

Schedule 4 - Contract Change Notice (CCN)

Order Form reference for the Call-Off Contract being varied:

BETWEEN:

Buyer Full Name ("the Buyer")

and

Supplier Full Name ("the Supplier")

1. The Call-Off Contract is varied as follows and shall take effect on the date signed by both Parties:

Guidance Note: Insert full details of the change including:

Reason for the change;

Full Details of the proposed change;

Likely impact, if any, of the change on other aspects of the Call-Off Contract;

2. Words and expressions in this Contract Change Notice shall have the meanings given to them in the Call-Off Contract.
3. The Call-Off Contract, including any previous changes shall remain effective and unaltered except as amended by this change.

Signed by an authorised signatory for and on behalf of the Buyer

Signature:

X _____

Date: Click here to enter a date.

Name: Click here to enter text.

Address: Click here to enter text.

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature:

X _____

Date: Click here to enter a date.

Name: Click here to enter text.

Address: Click here to enter text.

Schedule 5 - Balanced Scorecard

In addition to the Supplier's performance management obligations set out in the Framework Agreement, the Parties may agree to the following Balanced Scorecard & KPIs for this Call-Off Contract (see Balanced Scorecard Model below):

Balanced Scorecard

KPI – Performance to Pay Process			KPI – People (Resourcing)		
<p>In accordance with an agreed performance to pay process, suppliers submit the following 'inputs':</p> <ul style="list-style-type: none"> • Accurate and complete timesheets in a timely manner; • Accurate and complete Acceptance Certificates in a timely manner; • Accurate and complete Supplier Reports in a timely manner; • Accurate and complete invoices in a timely manner 			<p>Successful recruitment and placement of key resources/ provision of facilities meets the planned deliverables and contractual obligations; the supplier pro-actively manages their resource skills / state of facilities by identifying issues early and in a timely fashion addressing any deficits.</p>		
<p>Measurement</p> <p>All of the inputs are submitted in accordance with the performance to pay process timescales and contain accurate and complete information.</p>			<p>*Inputs are later than prescribed in the performance to pay process but within 5 working days of the prescribed dates.</p>	<p>*Inputs are later than 5 working days in the prescribed performance to pay process.</p>	<p>*Inputs contain significant errors.</p>
<p>Source: Supplier Reports/ Invoices Owner: To be agreed</p>			<p>Source: Project Managers and Wider Buyer team's verification. Owner: To be agreed</p>		
<p>KPI – Partnering Behaviours and Added Value</p> <p>• Supplier promotes positive collaborative working relationships within and across team by acting in a transparent manner. Supplier shows commitment to Buyer goals through adding value over and above the provision of compensated skilled personnel / facilities.</p>			<p>KPI – People in Place (Delivery)</p> <p>All Supplier resources delivering services for the contracts are performing to the expected standard for the skill-set supplied and/or all facilities are to the expected standard.</p>		
<p>Measurement</p> <p>*No behavioural problems identified.</p> <p>*Buyer workshops attended and positive contributions made.</p> <p>*Added Value recognised by the programme above provision of compensated skilled resource/ facilities</p>			<p>*Some minor behavioural problems.</p> <p>*Supplier only attends some workshops or provides minor contributions.</p> <p>*Supplier adds some value above provision of compensated resource/ facilities but this is not regarded as significant.</p>	<p>*Significant behavioural problems</p> <p>*Supplier contributions are rare or insignificant and shows little interest in working with other suppliers</p> <p>*no added value contributions recognised by Programme.</p>	<p>*No resources are swapped out due to deficiency in skill-set and/or no change of facilities is required.</p> <p>*No problems identified with quality of work/ state of facility</p> <p>*Supplier is making positive team contributions.</p> <p>*Supplier skills / facilities meet the standards expected.</p>
<p>Source: Collective feedback on suppliers from both Buyer and other supplier staff. Owner: To be agreed</p>			<p>Source: Project Manager and Wider Buyer team Owner: To be agreed</p>		

Supplier Name



The purpose of the Balanced Scorecard is to promote contract management activity, through measurement of a Supplier's performance against Key Performance Indicators, which the Buyer and Supplier should agree at the beginning of a Call-Off Contract. The targets and measures listed in the example scorecard (above) are for guidance and should be changed to meet the agreed needs of the Buyer and Supplier.

The recommended process for using the Balanced Scorecard is as follows:

1. The Buyer and Supplier agree a templated Balanced Scorecard together with a performance management plan, which clearly outlines the responsibilities and actions that will be taken if agreed performance levels are not achieved.
2. On an pre-agreed schedule (e.g. monthly), both the Buyer and the Supplier provide a rating on the Supplier's performance
3. Following the initial rating, both Parties meet to review the scores and agree an overall final score for each Key Performance Indicator

4. Following agreement of final scores, the process is repeated as per the agreed schedule

CCS encourages Buyers to share final scores with CCS, so that performance of the Framework Agreement can be monitored. This may be done by emailing scores to: cloud_digital@crownccommercial.gov.uk.

Schedule 6 - Optional Buyer terms and conditions

Sch 6.1 Buyer's agent – not used

Schedule 7 - How Services are bought (Further Competition process)

Services are bought under this Call-Off Contract using the Further Competition process set out in Section 3 of the Framework Agreement (How Services will be bought).

Schedule 8 - Deed of guarantee – not used

Schedule 9 - Processing, Personal Data and Data Subjects

Subject matter of the processing:

Provision of user acceptance testing services

Duration of the processing:

The duration of the project anticipated to be 18 months from commencement of the Call-Off Contract

Nature and purposes of the processing:

Strictly as required for the provision of the Services

Type of Personal Data:

Names and business contact details

Categories of Data Subject:

Authority staff (including agents and temporary workers), users/recipients of the Services

Plan for return or destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data:

In accordance with the terms of the Call-Off Contract.

Part C – Terms and conditions

1. Call-Off Contract start date, length and methodology

1.1 The Supplier will start providing the Services in accordance with the dates specified in any Statement of Work (SOW).

1.2 Completion dates for Deliverables will be set out in any SOW.

1.3 Unless the Call-Off Contract period has been increased in accordance with Clause 1.4 or decreased in accordance with Clause 1.5, the term of the Call-Off Contract will end when the first of these occurs:

- the Call-Off Contract period End Date listed in the Order Form is reached
- the final Deliverable, specified in the final SOW, is completed

1.4 The Buyer can extend the term of the Call-Off Contract by amending the Call-Off Contract End Date where:

- an Extension Period was specified in the Order Form
- written notice was given to the Supplier before the expiry of the notice period set out in the Order Form. The notice must state that the Call-Off Contract term will be extended, and must specify the number of whole days of the extension.

After this, the term of the Call-Off Contract will end on the last day of the Extension Period listed in the notice (the “Extension Period End Date”).

1.5 If the Call-Off Contract is terminated early, either during the initial Call-Off Contract period, or during any Extension Period, the term of the Call-Off Contract will end on the termination date.

1.6 The Supplier will plan on using an agile process, starting with user needs. The methodology will be outlined in the SOW. Waterfall methodology will only be used in exceptional circumstances, and where it can be shown to best meet user needs. Projects may need a combination of both waterfall and agile methods, playing to their respective strengths.

2. Supplier Staff

2.1 The Supplier Staff will:

- fulfil all reasonable requests of the Buyer
- apply all due skill, care and diligence to the provisions of the Services
- be appropriately experienced, qualified and trained to supply the Services
- respond to any enquiries about the Services as soon as reasonably possible
- complete any necessary vetting procedures specified by the Buyer

2.2 The Supplier will ensure that Key Staff are assigned to provide the Services for their Working Days (agreed between Supplier and Buyer) and are not removed from the Services during the dates specified in the relevant SOW.

2.3 The Supplier will promptly replace any Key Staff that the Buyer considers unsatisfactory at no extra charge. The Supplier will promptly replace anyone who resigns with someone who is acceptable to the Buyer. If the Supplier cannot provide an acceptable replacement, the Buyer may terminate the Call-Off Contract subject to clause 23.

2.4 Supplier Staff will comply with Buyer requirements for the conduct of staff when on Buyer's premises.

2.5 The Supplier will comply with the Buyer's staff vetting procedures for all or part of the Supplier Staff.

2.6 The Supplier will, on request, provide a copy of the contract of employment or engagement (between the Supplier and the Supplier Staff) for every member of Supplier Staff made available to the Buyer.

3. Swap-out

3.1 Supplier Staff providing the Services may only be swapped out with the prior approval of the Buyer .

4. Staff vetting procedures

4.1 All Supplier Staff will need to be cleared to the level determined by the Buyer prior to the commencement of work.

4.2 The Buyer may stipulate differing clearance levels for different roles during the Call-Off Contract period.

4.3 The Supplier will ensure that it complies with any additional staff vetting procedures requested by the Buyer.

5. Due diligence

- 5.1 Both parties acknowledge that information will be needed to provide the Services throughout the term of the Call-Off Contract and not just during the Further Competition process. Both parties agree to share such information freely.
- 5.2 Further to Clause 5.1, both Parties agree that when entering into a Call-Off Contract, they:
 - 5.2.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
 - 5.2.2 are confident that they can fulfil their obligations according to the terms of the Call-Off Contract
 - 5.2.3 have raised all due diligence questions before signing the Call-Off Contract
 - 5.2.4 have entered into the Call-Off Contract relying on its own due diligence

6. Warranties, representations and acceptance criteria

- 6.1 The Supplier will use the best applicable and available techniques and standards and will perform the Call-Off Contract with all reasonable care, skill and diligence, and according to Good Industry Practice.
- 6.2 The Supplier warrants that all Supplier Staff assigned to the performance of the Services have the necessary qualifications, skills and experience for the proper performance of the Services.
- 6.3 The Supplier represents and undertakes to the Buyer that each Deliverable will meet the Buyer's acceptance criteria, as defined in the Call-Off Contract Order Form.
- 6.4 The Supplier undertakes to maintain any interface and interoperability between third-party software or Services and software or Services developed by the Supplier.
- 6.5 The Supplier warrants that it has full capacity and authority and all necessary authorisations, consents, licences and permissions to perform the Call-Off Contract.

7. Business continuity and disaster recovery

- 7.1 If required by the Buyer, the Supplier will ensure a disaster recovery approach is captured in a clear disaster recovery plan. All Supplier Staff must also adhere to the Buyer's business continuity and disaster recovery procedure as required in the delivery of the Services for this project.

8. Payment terms and VAT

- 8.1 The Buyer will pay the Supplier within 30 days of receipt of a valid invoice submitted in accordance with the Call-Off Contract.
- 8.2 The Supplier will ensure that each invoice contains the information specified by the Buyer in the Order Form.
- 8.3 The Call-Off Contract Charges are deemed to include all Charges for payment processing. All Invoices submitted to the Buyer for the Services shall be exclusive of any Management Charge.
- 8.4 All payments under the Call-Off Contract are inclusive of VAT.

9. Recovery of sums due and right of set-off

- 9.1 If a Supplier owes money to the Buyer or any Crown body, the Buyer may deduct that sum from the total due to the Supplier.

10. Insurance

The Supplier will maintain the insurances required by the Buyer including those set out in this Clause.

10.1 Subcontractors

10.1.1 The Supplier will ensure that, during the Call-Off Contract, Subcontractors hold third-party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £5,000,000.

10.2 Agents and professional consultants

10.2.1 The Supplier will also ensure that all agents and professional consultants involved in the supply of Services hold professional indemnity insurance to a

minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the termination or expiry date to the Call-Off Contract to which the insurance relates.

10.3 Additional or extended insurance

10.3.1 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing insurance policies procured under the Framework Agreement.

10.3.2 The Supplier will provide CCS and the Buyer, the following evidence that they have complied with Clause 10.3.1 above:

- a broker's verification of insurance; or
- receipts in respect of the insurance premium; or
- other satisfactory evidence of payment of the latest premiums due.

10.4 Supplier liabilities

10.4.1 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or the Call-Off Contract.

10.4.2 Without limiting the other provisions of the Call-Off Contract, the Supplier will:

- take all risk control measures relating to the Services as it would be reasonable to expect of a contractor acting in accordance with Good Industry Practice, including the investigation and reports of claims to insurers;
- promptly notify the insurers in writing of any relevant material fact under any insurances of which the Supplier is, or becomes, aware; and
- hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of placing cover representing any of the insurance to which it is a Party.

10.4.3 The Supplier will not do or omit to do anything, which would entitle any insurer to refuse to pay any claim under any of the insurances.

10.5 Indemnity to principals

10.5.1 Where specifically outlined in the Call-Off Contract, the Supplier will ensure that the third-party public and products liability policy will contain an 'indemnity to principals' clause under which the Buyer will be compensated for both of the following claims against the Buyer:

- death or bodily injury; and
- third-party Property damage arising from connection with the Services and for which the Supplier is legally liable.

10.6 Cancelled, suspended, terminated or unrenewed policies

10.6.1 The Supplier will notify CCS and any Buyers as soon as possible if the Supplier becomes aware that any of the insurance policies have been, or are due to be, cancelled, suspended, terminated or not renewed.

10.7 Premium, excess and deductible payments

10.7.1 Where any insurance requires payment of a premium, the Supplier will:

- be liable for the premium; and
- pay such premium promptly.

10.7.2 Where any insurance is subject to an excess or deductible below the Supplier will be liable for it. The Supplier will not be entitled to recover any sum paid for insurance excess or any deductible from CCS or the Buyer.

11. Confidentiality

11.1 Except where disclosure is clearly permitted by the Call-Off Contract, neither Party will disclose the other Party's Confidential Information without the relevant Party's prior written consent.

11.2 Disclosure of Confidential Information is permitted where information:

- must be disclosed to comply with legal obligations placed on the Party making the disclosure
- belongs to the Party making the disclosure (who is not under any obligation of confidentiality) before its disclosure by the information owner
- was obtained from a third party who is not under any obligation of confidentiality, before receiving it from the disclosing Party
- is, or becomes, public knowledge, other than by breach of this Clause or the Call-Off Contract
- is independently developed without access to the other Party's Confidential Information
- is disclosed to obtain confidential legal professional advice.

11.3 The Buyer may disclose the Supplier's Confidential Information:

- to any central government body on the basis that the information may only be further disclosed to central government bodies;
- to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees;
- if the Buyer (acting reasonably) deems disclosure necessary or appropriate while carrying out its public functions;

- on a confidential basis to exercise its rights or comply with its obligations under the Call-Off Contract; or
- to a proposed transferee, assignee or novatee of, or successor in title to, the Buyer.

11.4 References to disclosure on a confidential basis will mean disclosure subject to a confidentiality agreement or arrangement containing the same terms as those placed on the Buyer under this Clause.

11.5 The Supplier may only disclose the Buyer's Confidential Information to Supplier Staff who are directly involved in the provision of the Services and who need to know the information to provide the Services. The Supplier will ensure that its Supplier Staff will comply with these obligations.

11.6 Either Party may use techniques, ideas or knowledge gained during the Call-Off Contract unless the use of these things results in them disclosing the other Party's Confidential Information where such disclosure is not permitted by the Framework Agreement, or is an infringement of Intellectual Property Rights.

11.7 Information about orders placed by a Buyer (including pricing information and the terms of any Call-Off Contract) may be published by CCS and may be shared with other Buyers. Where Confidential Information is shared with other Buyers, CCS will notify the recipient of the information that its contents are confidential.

12. Conflict of Interest

12.1 The Supplier will take all appropriate steps to ensure that Supplier Staff are not in a position where there is or may be an actual conflict between the financial or personal interests of the Supplier Staff and another Supplier where both are providing the Services to the Buyer under any Call-Off Contract in accordance with the Framework Agreement.

12.2 Any breach of this Clause will be deemed to be a Material Breach.

12.3 A conflict of interest may arise in situations including where a member of the Supplier Staff:

- is related to someone in another Supplier team who both form part of the same team performing the Services under the Framework Agreement;
 - has a business interest in another Supplier who is part of the same team performing the Services under the Framework Agreement;
 - is providing, or has provided, Services to the Buyer for the discovery phase;
- or

- has been provided with, or had access to, information which would give the Supplier or an affiliated company an unfair advantage in a Further Competition procedure.

12.4 Where the Supplier identifies a risk of a conflict or potential conflict, they will (before starting work under the Call-Off Contract, unless otherwise agreed with the Buyer) inform the Buyer of such conflicts of interest and how they plan to mitigate the risk. Details of such mitigation arrangements are to be sent to the Buyer as soon as possible. On receiving this notification, the Buyer will, at its sole discretion, notify the Supplier if the mitigation arrangements are acceptable or whether the risk or conflict remains a Material Breach.

13. Intellectual Property Rights

13.1 Unless otherwise specified in the Call-Off Contract:

- the Buyer will not have any right to the Intellectual Property Rights (IPRs) of the Supplier or its licensors, including the Supplier Background IPRs and any IPRs in the Supplier Software.
- the Crown may publish any Deliverable that is software as open source.
- the Supplier will not, without prior written approval from the Buyer, include any Supplier Background IPR or third party IPR in any Deliverable in such a way to prevent its publication;
 - and failure to seek prior approval gives the Buyer right and freedom to use all Deliverables.
- the Supplier will not have any right to the Intellectual Property Rights of the Buyer or its licensors, including:
 - the Buyer Background IPRs;
 - the Project-Specific IPRs;
 - IPRs in the Buyer Data.

13.2 Where either Party acquires, by operation of Law, right to IPRs that is inconsistent with the allocation of rights set out above, it will assign in writing such IPRs as it has acquired to the other Party on the request of the other Party (whenever the request is made).

13.3 Except where necessary for the performance of the Call-Off Contract (and only where the Buyer has given its prior approval), the Supplier will not use or disclose any of the Buyer Background IPRs, Buyer Data or the Project-Specific IPRs to or for the benefit of any third party.

- 13.4 The Supplier will not include any Supplier Background IPRs or third-party IPRs in any release or Deliverable that is to be assigned to the Buyer under the Call-Off Contract, without approval from the Buyer.
- 13.5 The Supplier will grant the Buyer (and any replacement Supplier) a perpetual, transferable, sub-licensable, non-exclusive, royalty-free licence to copy, modify, disclose and use the Supplier Background IPRs for any purpose connected with the receipt of the Services that is additional to the rights granted to the Buyer under the Call-Off Contract and to enable the Buyer:
- to receive the Services;
 - to make use of the Services provided by the replacement Supplier; and
 - to use any Deliverables.
- 13.6 The Buyer grants the Supplier a non-exclusive, non-assignable, royalty-free licence to use the Buyer Background IPRs, the Buyer Data and the Project-Specific IPRs during the term of the Call-Off Contract for the sole purpose of enabling the Supplier to provide the Services.
- 13.7 The Buyer gives no warranty as to the suitability of any IPRs licensed to the Supplier hereunder. Any such licence:
- may include the right to grant sub-licences to Subcontractors engaged in providing any of the Services (or part thereof) provided that any such Subcontractor has entered into a confidentiality undertaking with the Supplier on the same terms as in clause 11 (Confidentiality) and that any such subcontracts will be non-transferable and personal to the relevant Subcontractor; and
 - is granted solely to the extent necessary for the provision of the Services in accordance with the Call-Off Contract. The Supplier will ensure that the Subcontractors do not use the licensed materials for any other purpose.
- 13.8 At the end of the term of the Call-Off Contract, the Buyer grants to the Supplier a licence to use the Project-Specific IPRs (excluding any information which is the Buyer's Confidential Information or which is subject to the Data Protection Legislation) on the terms of the Open Government Licence v3.0.
- 13.9 Subject to the above Clause, the Supplier will ensure that no unlicensed software or open source software (other than the open source software specified by the Buyer) is interfaced with or embedded within any Buyer Software or Deliverable.
- 13.10 Before using any third-party IPRs related to the supply of the Services, the Supplier will submit to the Buyer for approval, all details of any third-party IPRs the Buyer requests.

- 13.11 Where the Supplier is granted permission to use third-party IPRs in a request for approval, the Supplier will ensure that the owner of such third-party IPRs grants to the Buyer a licence on the terms informed to the Buyer in the request for approval.
- 13.12 If the third-party IPR is made available on terms equivalent to the Open Government Licence v3.0, the request for approval will be agreed and the Supplier will buy licences under these terms. If not, and the Buyer rejects the Request for Approval, then the Call-Off Contract will need to be varied in accordance with Clause 30 'Changes to Services'.
- 13.13 The Supplier will, on written demand, fully indemnify the Buyer and the Crown for all losses which it may incur at any time as a result of any claim (whether actual alleged asserted and/or substantiated and including third party claims) that the rights granted to the Buyer in accordance with the Call-Off Contract or the performance by the Supplier of the provision of the Services or the possession or use by the Buyer of the Services or Deliverables delivered by the Supplier, including the publication of any Deliverable that is software as open source, infringes or allegedly infringes a third party's Intellectual Property Rights (an 'IPR Claim').
- 13.14 Clause 13.13 will not apply if the IPR Claim arises from:
- designs supplied by the Buyer;
 - the use of data supplied by the Buyer which is not required to be verified by the Supplier under any provision of the Call-Off Contract; or
 - other material provided by the Buyer necessary for the provision of the Services.
- 13.15 The indemnity given in Clause 13.13 will be uncapped.
- 13.16 The Buyer will notify the Supplier in writing of the IPR Claim made against the Buyer and the Buyer will not make any admissions which may be prejudicial to the defence or settlement of the IPR Claim. The Supplier will at its own expense conduct all negotiations and any litigation arising in connection with the IPR Claim provided always that the Supplier:
- consults the Buyer on all substantive issues which arise during the conduct of such litigation and negotiations;
 - takes due and proper account of the interests of the Buyer;
 - considers and defends the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Buyer into disrepute; and
 - does not settle or compromise the IPR Claim without the prior approval of the Buyer (such decision not to be unreasonably withheld or delayed).
- 13.17 If an IPR Claim is made (or in the reasonable opinion of the Supplier is likely to be made) in connection with the Call-Off Contract, the Supplier will, at the Supplier's

own expense and subject to the prompt approval of the Buyer, use its best endeavours to:

- modify the relevant part of the Services or Deliverables without reducing their functionality or performance, or substitute Services or Deliverables of equivalent functionality or performance, to avoid the infringement or the alleged infringement, provided that there is no additional cost or burden to the Buyer;
- buy a licence to use and supply the Services or Deliverables, which are the subject of the alleged infringement, on terms which are acceptable to the Buyer; and
- promptly perform any responsibilities and obligations to do with the Call-Off Contract.

13.18 If an IPR Claim is made (or in the reasonable opinion of the Supplier is likely to be made) against the Supplier, the Supplier will immediately notify the Buyer in writing.

13.19 If the Supplier does not comply with provisions of this Clause within 20 Working Days of receipt of notification by the Supplier from the Buyer under clause 13.16 or receipt of the notification by the Buyer from the Supplier under clause 13.18 (as appropriate), the Buyer may terminate the Call-Off Contract for Material Breach and the Supplier will, on demand, refund the Buyer with all monies paid for the Service or Deliverable that is subject to the IPR Claim.

13.20 The Supplier will have no rights to use any of the Buyer's names, logos or trademarks without the Buyer's prior written approval.

13.21 The Supplier will, as an enduring obligation throughout the term of the Call-Off Contract where any software is used in the provision of the Services or information uploaded, interfaced or exchanged with the CCS or Buyer systems, use software and the most up-to-date antivirus definitions from an industry-accepted antivirus software vendor. It will use the software to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between CCS or the Buyer, and the Supplier).

13.22 If Malicious Software is found, the Supplier will co-operate with the Buyer to reduce the effect of the Malicious Software. If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, the Supplier will use all reasonable endeavours to help the Buyer to mitigate any losses and restore the provision of the Services to the desired operating efficiency as soon as possible.

13.23 Any costs arising from the actions of the Buyer or Supplier taken in compliance with the provisions of the above clause, and clause 20.3, will be dealt with by the Buyer and the Supplier as follows:

- by the Supplier, where the Malicious Software originates from the Supplier Software or the Buyer Data while the Buyer Data was under the control of the

Supplier, unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier.

- by the Buyer if the Malicious Software originates from the Buyer Software or the Buyer Data, while the Buyer Data was under the control of the Buyer.

13.24 All Deliverables that are software shall be created in a format, or able to be converted into a format, which is suitable for publication by the Buyer as open source software, unless otherwise agreed by the Buyer.

13.25 Where Deliverables that are software are written in a format that requires conversion before publication as open source software, the Supplier shall also provide the converted format to the Authority unless the Authority agrees in advance in writing that the converted format is not required.

14. Data Protection and Disclosure

14.1 The Parties will comply with the Data Protection Legislation and agree that the Buyer is the Controller and the Supplier is the Processor. The only processing the Supplier is authorised to do is listed at Schedule 9 unless Law requires otherwise (in which case the Supplier will promptly notify the Buyer of any additional processing if permitted by Law).

14.2 The Supplier will provide all reasonable assistance to the Buyer to prepare any Data Protection Impact Assessment before commencing any processing (including provision of detailed information and assessments in relation to processing operations, risks and measures) and must notify the Buyer immediately if it considers that the Buyer's instructions infringe the Data Protection Legislation.

14.3 The Supplier must have in place Protective Measures, which have been reviewed and approved by the Buyer as appropriate, to guard against a Data Loss Event, which take into account the nature of the data, the harm that might result, the state of technology and the cost of implementing the measures.

14.4 The Supplier will ensure that the Supplier Personnel only process Personal Data in accordance with this Call-Off Contract and take all reasonable steps to ensure the reliability and integrity of Supplier Personnel with access to Personal Data, including by ensuring they:

- i) are aware of and comply with the Supplier's obligations under this Clause;

- ii) are subject to appropriate confidentiality undertakings with the Supplier or relevant Subprocessor
- iii) are informed of the confidential nature of the Personal Data and don't publish, disclose or divulge it to any third party unless directed by the Buyer or in accordance with this Call-Off Contract
- iv) are given training in the use, protection and handling of Personal Data

14.5 The Supplier will not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Buyer has been obtained and the following conditions are met:

- i) the Buyer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Buyer;
- ii) the Data Subject has enforceable rights and effective legal remedies;
- iii) the Supplier 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 Buyer in meeting its obligations); and
- iv) the Supplier complies with any reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data

14.6 The Supplier will delete or return the Buyer's Personal Data (including copies) if requested in writing by the Buyer at the termination or expiry of this Call-Off Contract, unless required to retain the Personal Data by Law.

14.7 The Supplier will notify the Buyer immediately if it receives any communication from a third party relating to the Parties' obligations under the Data Protection Legislation, or it becomes aware of a Data Loss Event, and will provide the Buyer with full and ongoing assistance in relation to each Party's obligations under the Data Protection Legislation in accordance with any timescales reasonably required by the Buyer.

14.8 The Supplier will maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- i) the Buyer determines that the processing is not occasional;
- ii) the Buyer 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; and
- iii) the Buyer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

14.9 Before allowing any Subprocessor to process any Personal Data related to this Call-Off Contract, the Supplier must obtain the prior written consent of the Buyer, and shall remain fully liable for the acts and omissions of any Subprocessor.

14.10 The Buyer may amend this Call-Off Contract on not less than 30 Working Days' notice to the Supplier to ensure that it complies with any guidance issued by the Information Commissioner's Office.

15. Buyer Data

15.1 The Supplier will not remove any proprietary notices relating to the Buyer Data.

15.2 The Supplier will not store or use Buyer Data except where necessary to fulfill its obligations.

15.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested and in the format specified by the Buyer.

15.4 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.

15.5 The Supplier will ensure that any system which holds any Buyer Data complies with the security requirements prescribed by the Buyer.

15.6 The Supplier will ensure that any system on which the Supplier holds any protectively marked Buyer Data will be accredited as specific to the Buyer and will comply with:

- the government security policy framework and information assurance policy;
- guidance issued by the Centre for Protection of National Infrastructure on Risk Management and Accreditation of Information Systems; and
- the relevant government information assurance standard(s).

15.7 Where the duration of the Call-Off Contract exceeds one year, the Supplier will review the accreditation status at least once a year to assess whether material changes have occurred which could alter the original accreditation decision in relation to Buyer Data. If any changes have occurred, the Supplier will re-submit such system for accreditation.

15.8 If at any time the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will at its own cost comply with any remedial action proposed by the Buyer.

15.9 The Supplier will provide, at the request of CCS or the Buyer, any information relating to the Supplier's compliance with its obligations under the Data Protection Legislation. The Supplier will also ensure that it does not knowingly or negligently fail to do something that places CCS or any Buyer in breach of its obligations of the Data Protection Legislation. This is an absolute obligation and is not qualified by any other provision of the Call-Off Contract.

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

16. Document and source code management repository

16.1 The Supplier will comply with any reasonable instructions given by the Buyer as to where it will store documents and source code, both finished and in progress, during the term of the Call-Off Contract.

16.2 The Supplier will ensure that all items that are uploaded to any repository contain sufficient detail, code annotations and instructions so that a third-party developer with the relevant technical abilities within the applicable role would be able to understand how the item was created and how it works together with the other items in the repository within a reasonable timeframe.

17. Records and audit access

17.1 The Supplier will allow CCS (and CCS's external auditor) to access its information and conduct audits of the Services provided under the Call-Off Contract and the provision of Management Information (subject to reasonable and appropriate confidentiality undertakings).

18. Freedom of Information (FOI) requests

18.1 The Supplier will transfer any Request for Information to the Buyer within 2 Working Days of receipt.

18.2 The Supplier will provide all necessary help reasonably requested by the Buyer to enable the Buyer to respond to the Request for Information within the time for compliance set out in section 10 of the Freedom of Information Act or Regulation 5 of the Environmental Information Regulations.

18.3 To the extent it is permissible and reasonably practical for it to do so, CCS will make reasonable efforts to notify the Supplier when it receives a relevant FOIA or EIR request so that the Supplier may make appropriate representations.

19. Standards and quality

19.1 The Supplier will comply with any standards in the Call-Off Contract and Section 4 (How Services will be delivered) of the Framework Agreement, and with Good Industry Practice.

20. Security

20.1 If requested to do so by the Buyer, the Supplier will, within 5 Working Days of the date of the Call-Off Contract, develop, obtain Buyer's approval of, maintain and observe a Security Management Plan and an Information Security Management System (ISMS) which, after Buyer approval, will apply during the term of the Call-Off Contract. Both the ISMS and the Security Management Plan will comply with the security policy of the Buyer and protect all aspects of the Services, and all processes associated with the delivery of the Services.

20.2 The Supplier will use software and the most up-to-date antivirus definitions available from an industry accepted antivirus software vendor to minimise the impact of Malicious Software.

20.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, the Supplier will help the Buyer to mitigate any losses and will restore the Services to their desired operating efficiency as soon as possible.

- 20.4 The Supplier will immediately notify CCS of any breach of security in relation to CCS's Confidential Information (and the Buyer in relation to any breach regarding Buyer Confidential Information). The Supplier will recover such CCS and Buyer Confidential Information however it may be recorded.
- 20.5 Any system development by the Supplier must also comply with the government's '10 Steps to Cyber Security' guidance, as amended from time to time and currently available at: <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 20.6 The Buyer will specify any security requirements for this project in the Order Form.

21. Incorporation of terms

- 21.1 Upon the execution of a Statement of Work (SOW), the terms and conditions agreed in the SOW will be incorporated into the Call-Off Contract that the terms of the SOW are agreed under.

22. Managing disputes

- 22.1 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement as soon as possible.
- 22.2 Nothing in this prevents a Party from seeking any interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 22.3 If the dispute cannot be resolved, either Party will be entitled to refer it to mediation in accordance with the procedures below, unless:
- the Buyer considers that the dispute is not suitable for resolution by mediation;
 - the Supplier does not agree to mediation.
- 22.4 The procedure for mediation is as follows:
- A neutral adviser or mediator will be chosen by agreement between the Parties. If the Parties cannot agree on a mediator within 10 Working Days after a request by one Party to the other, either Party will as soon as possible, apply to the mediation provider or to the Centre for Effective Dispute Resolution (CEDR) to appoint a mediator. This application to CEDR must take place within 12 Working Days from the date of the proposal to appoint a mediator, or within 3 Working Days of notice from the mediator to either Party that they are unable or unwilling to act.
 - The Parties will meet with the mediator within 10 Working Days of the mediator's appointment to agree a programme for the exchange of all relevant

information and the structure for negotiations to be held. The Parties may at any stage seek help from the mediation provider specified in this clause to provide guidance on a suitable procedure.

- Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- If the Parties reach agreement on the resolution of the dispute, the agreement will be recorded in writing and will be binding on the Parties once it is signed by their duly authorised representatives.
- Failing agreement, either Party may invite the mediator to provide a non-binding but informative opinion in writing. Such an opinion will be provided without prejudice and will not be used in evidence in any proceedings relating to the Call-Off Contract without the prior written consent of both Parties.
- 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.

22.5 Either Party may request by written notice that the dispute is referred to expert determination if the dispute relates to:

- any technical aspect of the delivery of the digital services;
- the underlying technology; or
- is otherwise of a financial or technical nature.

22.6 An expert will be appointed by written agreement between the Parties, but if there's a failure to agree within 10 Working Days, or if the person appointed is unable or unwilling to act, the expert will be appointed on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society).

22.7 The expert will act on the following basis:

- they will act as an expert and not as an arbitrator and will act fairly and impartially;
- the expert's determination will (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- the expert will decide the procedure to be followed in the determination and will be requested to make their determination within 30 Working Days of their appointment or as soon as reasonably practicable and the Parties will help and provide the documentation that the expert needs for the determination;

- any amount payable by one Party to another as a result of the expert's determination will be due and payable within 20 Working Days of the expert's determination being notified to the Parties
- the process will be conducted in private and will be confidential;
- the expert will determine how and by whom the costs of the determination, including their fees and expenses, are to be paid.

22.8 Without prejudice to any other rights of the Buyer under the Call-Off Contract, the obligations of the Parties under the Call-Off Contract will not be suspended, ceased or delayed by the reference of a dispute submitted to mediation or expert determination and the Supplier and the Supplier Staff will comply fully with the Requirements of the Call-Off Contract at all times.

23. Termination

23.1 The Buyer will have the right to terminate the Call-Off Contract at any time by giving the notice to the Supplier specified in the Order Form. The Supplier's obligation to provide the Services will end on the date set out in the Buyer's notice.

23.2 The minimum notice period (expressed in Working Days) to be given by the Buyer to terminate under this Clause will be the number of whole days that represent 20% of the total duration of the current SOW to be performed under the Call-Off Contract, up to a maximum of 30 Working Days.

23.3 Partial days will be discounted in the calculation and the duration of the SOW will be calculated in full Working Days.

23.4 The Parties acknowledge and agree that:

- the Buyer's right to terminate under this Clause is reasonable in view of the subject matter of the Call-Off Contract and the nature of the Service being provided.
- the Call-Off Contract Charges paid during the notice period given by the Buyer in accordance with this Clause are a reasonable form of compensation and are deemed to fully cover any avoidable costs or losses incurred by the Supplier which may arise either directly or indirectly as a result of the Buyer exercising the right to terminate under this Clause without cause.
- Subject to clause 34 (Liability), if the Buyer terminates the Call-Off Contract without cause, they will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate such Loss. If the Supplier holds insurance, the Supplier will reduce its unavoidable costs by

any insurance sums available. The Supplier will submit a fully itemised and costed list of such Loss, with supporting evidence of unavoidable Losses incurred by the Supplier as a result of termination.

23.5 The Buyer will have the right to terminate the Call-Off Contract at any time with immediate effect by written notice to the Supplier if:

- the Supplier commits a Supplier Default and if the Supplier Default cannot, in the opinion of the Buyer, be remedied; or
- the Supplier commits any fraud.

23.6 Either Party may terminate the Call-Off Contract at any time with immediate effect by written notice to the other if:

- the other Party commits a Material Breach of any term of the Call-Off Contract (other than failure to pay any amounts due under the Call-Off Contract) and, if such breach is remediable, fails to remedy that breach within a period of 15 Working Days of being notified in writing to do so;
- an Insolvency Event of the other Party occurs, or the other Party ceases or threatens to cease to carry on the whole or any material part of its business
- a Force Majeure Event occurs for a period of more than 15 consecutive calendar days.

23.7 If a Supplier Insolvency Event occurs, the Buyer is entitled to terminate the Call-Off Contract.

24. Consequences of termination

24.1 If the Buyer contracts with another Supplier, the Supplier will comply with Clause 29.

24.2 The rights and obligations of the Parties in respect of the Call-Off Contract (including any executed SOWs) will automatically terminate upon the expiry or termination of the relevant Call-Off Contract, except those rights and obligations set out in clause 24.6.

24.3 At the end of the Call-Off Contract period (howsoever arising), the Supplier must:

- immediately return to the Buyer:
 - all Buyer Data including all copies of Buyer Software and any other software licensed by the Buyer to the Supplier under the Call-Off Contract;
 - any materials created by the Supplier under the Call-Off Contract where the IPRs are owned by the Buyer;

- any items that have been on-charged to the Buyer, such as consumables; and
- all equipment provided to the Supplier. This equipment must be handed back to the Buyer in good working order (allowance will be made for reasonable wear and tear).
- immediately upload any items that are or were due to be uploaded to the repository when the Call-Off Contract was terminated (as specified in Clause 27);
- cease to use the Buyer Data and, at the direction of the Buyer, provide the Buyer and the replacement Supplier with a complete and uncorrupted version of the Buyer Data in electronic form in the formats and on media agreed with the Buyer and the replacement Supplier;
- destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 months after the date of expiry or termination (whichever is the earlier), and provide written confirmation to the Buyer that the data has been destroyed, except where the retention of Buyer Data is required by Law;
- vacate the Buyer premises;
- work with the Buyer on any work in progress and ensure an orderly transition of the Services to the replacement supplier;
- return any sums prepaid for Services which have not been delivered to the Buyer by the date of expiry or termination;
- provide all information requested by the Buyer on the provision of the Services so that:
 - the Buyer is able to understand how the Services have been provided; and
 - the Buyer and the replacement supplier can conduct due diligence.

24.4 Each Party will return all of the other Party's Confidential Information. Each Party will confirm that it does not retain the other Party's Confidential Information except where the information must be retained by the Party as a legal requirement or where the Call-Off Contract states otherwise.

24.5 All licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Services will be terminated at the end of the Call-Off Contract period (howsoever arising) without the need for the Buyer to serve notice except where the Call-Off Contract states otherwise.

24.6 Termination or expiry of the Call-Off Contract will not affect:

- any rights, remedies or obligations accrued under the Call-Off Contract prior to termination or expiration;
- the right of either Party to recover any amount outstanding at the time of such termination or expiry;

- the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses:
 - 8 - Payment Terms and VAT
 - 9 - Recovery of Sums Due and Right of Set-Off
 - 11 - Confidentiality
 - 12 - Conflict of Interest
 - 13 - Intellectual Property Rights
 - 24 - Consequences of Termination
 - 28 - Staff Transfer
 - 34 - Liability
 - 35 - Waiver and cumulative remedies
- any other provision of the Framework Agreement or the Call-Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry will survive the termination or expiry of the Call-Off Contract.

25. Supplier's status

25.1 The Supplier is an independent Contractor and no contract of employment or partnership is created between the Supplier and the Buyer. Neither Party is authorised to act in the name of, or on behalf of, the other Party.

26. Notices

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

26.2 The following table sets out the method by which notices may be served under the Call-Off Contract and the respective deemed time and proof of Service:

Delivery type	Deemed delivery time	Proof of Service
Email	9am on the first Working Day after sending	Dispatched in a pdf form to the correct email address without any error message

26.3 The address and email address of each Party will be the address and email address in the Order Form.

27. Exit plan

27.1 The Buyer and the Supplier will agree an exit plan during the Call-Off Contract period to enable the Supplier Deliverables to be transferred to the Buyer ensuring that the Buyer has all the code and documentation required to support and continuously develop the Service with Buyer resource or any third party as the Buyer requires. The Supplier will update this plan whenever there are material changes to the Services. A Statement of Work may be agreed between the Buyer and the Supplier to specifically cover the exit plan.

28. Staff Transfer

28.1 The Parties agree that nothing in the Call-Off Contract or the provision of the Services is expected to give rise to a transfer of employment to which the Employment Regulations apply.

28.2 The Supplier will fully indemnify the Buyer against all Supplier Staff Liabilities which arise as a result of any claims brought against the Buyer due to any act or omission of the Supplier or any Supplier Staff.

28.3 The indemnity given in Clause 28.2 will be uncapped.

29. Help at retendering and handover to replacement supplier

29.1 When requested, the Supplier will (at its own expense where the Call-Off Contract has been terminated before end of term due to Supplier cause) help the Buyer to migrate the Services to a replacement Supplier in line with the exit plan (Clause 27) to ensure continuity of the Services. Such help may include Supplier demonstrations of the existing code and development documents, software licences used and Buyer approval documents. The Supplier will also answer Service and development-related clarification questions.

29.2 Within 10 Working Days of a request by the Buyer, the Supplier will provide any information needed by the Buyer to prepare for any procurement exercise or to facilitate any potential replacement Supplier undertaking due diligence. The exception to this is where such information is deemed to be Commercially Sensitive Information, in which case the Supplier will provide the information in a redacted form.

30. Changes to services

30.1 It is likely that there will be changes to the scope of the Services during the Call-Off Contract period. Agile projects have a scope that will change over time. The detailed scope (eg as defined in user stories) can evolve and change during the

Call-Off Contract Period. These changes do not require formal contract changes but do require the Buyer and Supplier to agree these changes.

- 30.2 Any changes to the high-level scope of the Services must be agreed between the Buyer and Supplier. The Supplier will consider any request by the Buyer to change the scope of the Services, and may agree to such request.

31. Contract changes

- 31.1 All changes to the Call-Off Contract which cannot be accommodated informally as described in Clause 30 will require a Contract Change Note.
- 31.2 Either Party may request a contract change by completing and sending a draft Contract Change Note in the form in Schedule 4 of Part B - The Schedules ('the **Contract Change Notice**') to the other Party giving sufficient information to enable the other Party to assess the extent of the change and any additional cost that may be incurred. The Party requesting the contract change will bear the costs of preparation of the Contract Change Notice. Neither Party will unreasonably withhold or delay consent to the other Party's proposed changes to the Call-Off Contract.
- 31.3 Due to the agile-based delivery methodology recommended by the Framework Agreement, it may not be possible to exactly define the consumption of Services over the duration of the Call-Off Contract in a static Order Form. The Supplier should state the initial value of all Services that are likely to be consumed under the Call-Off Contract.

32. Force Majeure

- 32.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Call-Off Contract (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event. Each Party will use all reasonable endeavours to continue to perform its obligations under the Call-Off Contract for the length of a Force Majeure event. If a Force Majeure event prevents a Party from performing its obligations under the Call-Off Contract for more than 15 consecutive calendar days, the other Party may terminate the Call-Off Contract with immediate effect by notice in writing.

33. Entire agreement

- 33.1 The Call-Off Contract constitutes the entire agreement between the Parties relating to the matters dealt within it. It supersedes any previous agreement between the Parties relating to such matters.

33.2 Each of the Parties agrees that in entering into the Call-Off Contract it does not rely on, and will have no remedy relating to, any agreement, statement, representation, warranty, understanding or undertaking (whether negligently or innocently made) other than as described in the Call-Off Contract.

33.3 Nothing in this Clause or Clause 34 will exclude any liability for (or remedy relating to) fraudulent misrepresentation or fraud.

34. Liability

34.1 Neither Party excludes or limits its liability for:

- death or personal injury;
- bribery or fraud by it or its employees;
- breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- any liability to the extent it cannot be excluded or limited by Law.

34.2 In respect of the indemnities in Clause 13 (Intellectual Property Rights) and Clause 28 (Staff Transfer) the Supplier's total liability will be unlimited. Buyers are not limited in the number of times they can call on this indemnity.

34.3 Subject to the above, each Party's total aggregate liability relating to all Losses due to a Default in connection with this agreement:

- resulting in direct loss or damage to physical Property (including any technical infrastructure, assets or Equipment) of the other Party, will be limited to the sum of £1,000,000 in each Call-Off Contract year in which the Default occurs, unless otherwise stipulated by the Buyer in a Further Competition procedure
- subject to the first bullet point in this Clause 34.3 which occur in the first 6 months, will be limited to the greater of the sum of £500,000 or a sum equal to 200% of the estimated Call-Off Contract Charges for the first six months
- subject to the first bullet point in this Clause 34.3 which occur during the remainder of the Call-Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call-Off Contract Charges paid, due or which would have been payable under the Call-Off Contract in the 6 months immediately preceding the event giving rise to the liability
- subject to the first bullet point in this Clause 34.3 which occur after the end of the Call-Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call-Off Contract Charges paid, due or which would have been payable under the Call-Off Contract in the 6 months immediately before the end of the Call-Off Contract period.

- 34.4 Subject to clause 34.1, in no event will either Party be liable to the other for any:
- loss of profits;
 - loss of business;
 - loss of revenue;
 - loss of or damage to goodwill;
 - loss of savings (whether anticipated or otherwise); or
 - any indirect, special or consequential loss or damage.
- 34.5 The Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Buyer:
- the additional operational or administrative costs and expenses arising from any Material Breach; and/or
 - any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Law.
- 34.6 No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, the Buyer to any document or information provided by the Supplier in its provision of the Services, and no failure of the Buyer to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the Supplier to carry out all the obligations of a professional Supplier employed in a client and Buyer relationship.
- 34.7 Unless otherwise expressly provided, the obligations of the Buyer under the Call-Off Contract are obligations of the Buyer in its capacity as a Contracting counterparty and nothing in the Call-Off Contract will be an obligation on, or in any other way constrain the Buyer in any other capacity, nor will the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under the Call-Off Contract on the part of the Buyer to the Supplier.
- 34.8 Any liabilities which are unlimited will not be taken into account for the purposes of establishing whether any limits relating to direct loss or damage to physical Property within this Clause have been reached.

35. Waiver and cumulative remedies

- 35.1 The rights and remedies provided by this agreement may be waived only in writing by the Buyer or the Supplier representatives in a way that expressly states that a waiver is intended, and such waiver will only be operative regarding the specific circumstances referred to.

35.2 Unless a right or remedy of the Buyer is expressed to be exclusive, the exercise of it by the Buyer is without prejudice to the Buyer's other rights and remedies. Any failure to exercise, or any delay in exercising, a right or remedy by either Party will not constitute a waiver of that right or remedy, or of any other rights or remedies.

36. Fraud

36.1 The Supplier will notify the Buyer if it suspects that any fraud has occurred, or is likely to occur. The exception to this is if while complying with this, it would cause the Supplier or its employees to commit an offence.

36.2 If the Supplier commits any fraud relating to a Framework Agreement, the Call-Off Contract or any other Contract with the government:

- the Buyer may terminate the Call-Off Contract
- CCS may terminate the Framework Agreement
- CCS and/or the Buyer may recover in full from the Supplier whether under Clause 36.3 below or by any other remedy available in law.

36.3 The Supplier will, on demand, compensate CCS and/or the Buyer, in full, for any loss sustained by CCS and/or the Buyer at any time (whether such loss is incurred before or after the making of a demand following the indemnity hereunder) in consequence of any breach of this Clause.

37. Prevention of bribery and corruption

37.1 The Supplier will not commit any Prohibited Act.

37.2 The Buyer and CCS will be entitled to recover in full from the Supplier and the Supplier will, on demand, compensate CCS and/or the Buyer in full from and against:

- the amount of value of any such gift, consideration or commission; and
- any other loss sustained by CCS and/or the Buyer in consequence of any breach of this Clause

38. Legislative change

38.1 The Supplier will neither be relieved of its obligations under the Call-Off Contract nor be entitled to increase the Call-Off Contract prices as the result of a general change in Law or a Specific Change in Law without prior written approval from the Buyer.

39. Publicity, branding, media and official enquiries

39.1 The Supplier will take all reasonable steps to not do anything which may damage the public reputation of the Buyer. The Buyer may terminate the Call-Off Contract for Material Breach where the Supplier, by any act or omission, causes material adverse publicity relating to or affecting the Buyer or the Call-Off Contract. This is true whether or not the act or omission in question was done in connection with the performance by the Supplier of its obligations hereunder.

40. Non Discrimination

40.1 The Supplier will notify CCS and relevant Buyers immediately of any legal proceedings issued against it by any Supplier Staff on the grounds of discrimination.

41. Premises

41.1 Where either Party uses the other Party's premises, such Party is liable for all Loss or damage it causes to the premises. Such Party is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

41.2 The Supplier will use the Buyer's premises solely for the Call-Off Contract.

41.3 The Supplier will vacate the Buyer's premises upon termination or expiry of the Call-Off Contract.

41.4 This Clause does not create an tenancy or exclusive right of occupation.

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

- ensure the security of the premises;
- comply with Buyer requirements for the conduct of personnel;
- comply with any health and safety measures implemented by the Buyer;
- comply with any instructions from the Buyer on any necessary associated safety measures ; and
- notify the Buyer immediately in the event of any incident occurring on the premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

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

41.7 All Equipment brought onto the Buyer's premises will be at the Supplier's risk. Upon termination or expiry of the Call-Off Contract, the Supplier will remove such Equipment.

42. Equipment

- 42.1 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.
- 42.2 Upon termination or expiry of the Call-Off Contract, the Supplier will remove the Equipment, and any other materials, leaving the premises in a safe and clean condition.

43. Law and jurisdiction

- 43.1 The Call-Off Contract will be governed by the Laws of England and Wales. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

44. Defined Terms

'Assurance'	The verification process undertaken by CCS as described in section 5 of the Framework Agreement
'Background IPRs'	For each Party: <ul style="list-style-type: none">• IPRs owned by that Party before the date of the Call-Off Contract, including IPRs contained in any of the Party's know-how, documentation, processes and procedures;• IPRs created by the Party independently of the Call-Off Contract; and/or• For the Buyer, Crown Copyright which is not available to the Supplier otherwise than under the Call-Off Contract; but excluding IPRs owned by that Party subsisting in Buyer Software or Supplier Software
'Buyer'	A UK public sector body, or Contracting Body, as described in the OJEU Contract Notice, that can execute a competition and a Call-Off Contract within the Framework Agreement
'Buyer Background IPRs'	Background IPRs of the Buyer
'Buyer's Confidential Information'	All Buyer Data and any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Suppliers of the Buyer, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above

	Any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')
'Buyer Data'	Data that is owned or managed by the Buyer, including Personal Data gathered for user research, eg recordings of user research sessions and lists of user research participants
'Buyer Software'	Software owned by or licensed to the Buyer (other than under or pursuant to this Call Off Contract), which is or will be used by the Supplier for the purposes of providing the Services
'Call-Off Contract'	<p>The legally binding agreement (entered into following the provisions of the Framework Agreement) for the provision of Services made between a Buyer and the Supplier</p> <p>This may include the key information summary, Order Form, requirements, Supplier's response, Statement of Work (SOW), Contract Change Notice (CNN) and terms and conditions as set out in the Call-Off Contract Order Form</p>
'Charges'	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the applicable SOW(s), in consideration of the full and proper performance by the Supplier of the Supplier's obligations under the Call-Off Contract and the specific obligations in the applicable SOW
'Commercially Sensitive Information'	Information, which CCS has been notified about, (before the start date of the Framework Agreement) or the Buyer (before the Call-Off Contract start date) with full details of why the Information is deemed to be commercially sensitive
'Comparable Supply'	The supply of services to another customer of the Supplier that are the same or similar to any of the Services
'Confidential Information'	<p>CCS's Confidential Information or the Supplier's Confidential Information, which may include (but is not limited to):</p> <ul style="list-style-type: none"> any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all

	<p>Intellectual Property Rights (IPRs), together with all information derived from any of the above</p> <ul style="list-style-type: none"> any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')
'Contracting Bodies'	The Buyer and any other person as listed in the OJEU Contract Notice or Regulation 2 of the Public Contracts Regulations 2015, as amended from time to time, including CCS
'Control'	Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly
'Controller'	Takes the meaning given in the Data Protection Legislation.
'Crown'	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
'Data Loss Event'	Any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Call-Off Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Call-Off Contract, including any Personal Data Breach.
'Data Protection Impact Assessment'	An assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
'Data Protection Legislation'	<p>i) all applicable Law about the processing of personal data and privacy including if applicable legally binding guidance and codes of practice issued by the Information Commissioner and:</p> <p>before the 25 May 2018,</p> <p>ii) The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications)</p>

	<p>Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003; and</p> <p>from the 25 May 2018,</p> <p>iii) The GDPR, the LED and any applicable national implementing Laws as amended from time to time and</p> <p>iv) (iv) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy.</p>
'Data Subject'	Takes the meaning given in the Data Protection Legislation.
'Default'	<ul style="list-style-type: none"> ● any breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) ● any other default, act, omission, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff in connection with or in relation to the Framework Agreement or this Call-Off Contract <p>Unless otherwise specified in this Call-Off Contract the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer</p>
'Deliverable'	A tangible work product, professional service, outcome or related material or item that is to be achieved or delivered to the Buyer by the Supplier as part of the Services as defined in the Order Form and all subsequent Statement of Work
'Digital Marketplace'	The government marketplace where Services will be bought (https://www.digitalmarketplace.service.gov.uk/)
'DPA 2018'	Data Protection Act 2018.
'Employment Regulations'	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC on the approximation of laws of European

	member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time
'Equipment'	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under the Call-Off Contract
'Extension Period'	The period (expressed in Working Days) that the initial Call-Off Contract term is extended by following notice given by the Buyer to the Supplier in accordance with Clause 1.4, such period not to exceed the number of whole days that represent 25% of the initial Call-Off Contract period.
'FoIA'	The Freedom of Information Act 2000 and any subordinate legislation made under the Act occasionally together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation
'Framework Agreement'	The Framework Agreement between CCS and the Supplier for the provision of the Services dated [x]
'Further Competition'	The Further Competition procedure as described in Section 3 (how Services will be bought) of the Framework Agreement.
'GDPR'	The General Data Protection Regulation (Regulation (EU) 2016/679).
'Good Industry Practice'	Standards and procedures conforming to the Law and the application of skill, care and foresight which would be expected from a person or body who has previously been engaged in a similar type of undertaking under similar circumstances. The person or body must adhere to the technology code of practice (https://www.gov.uk/service-manual/technology/code-of-practice.html) and the government service design manual (https://www.gov.uk/service-manual)
'Group'	A company plus any subsidiary or holding company. 'Holding company' and 'Subsidiary' are defined in section 1159 of the Companies Act 2006

'Group of Economic Operators'	A partnership or consortium not (yet) operating through a separate legal entity.
'Holding Company'	As described in section 1159 and Schedule 6 of the Companies Act 2006
'Information'	As described under section 84 of the Freedom of Information Act 2000, as amended from time to time
'Insolvency Event'	may be: <ul style="list-style-type: none"> ● a voluntary arrangement ● a winding-up petition ● the appointment of a receiver or administrator ● an unresolved statutory demand ● a Schedule A1 moratorium
'Intellectual Property Rights' or 'IPR'	means: <p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), Know-How, trade secrets and moral rights and other similar rights or obligations whether registerable or not;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off.</p>
'Key Staff'	Means the Supplier Staff named in the SOW as such
'KPI Target'	The acceptable performance level for a key performance indicator (KPI)
'Law'	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body
'LED'	Law Enforcement Direction (Directive (EU) 2016/680).
'Loss'	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of

	investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and 'Losses' will be interpreted accordingly
'Lot'	A subdivision of the Services which are the subject of this procurement as described in the OJEU Contract Notice
'Malicious Software'	Any software program or code intended to destroy, or cause any undesired effects. It could be introduced wilfully, negligently or without the Supplier having knowledge of its existence.
'Management Charge'	The sum paid by the Supplier to CCS being an amount of 1.0% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or termination of any Call-Off Contract
'Management Information'	The Management Information (MI) specified in section 6 of the Framework Agreement
'Management Information (MI) Failure'	If any of the below instances occur, CCS may treat this as an 'MI Failure': <ul style="list-style-type: none"> ● there are omissions or errors in the Supplier's submission ● the Supplier uses the wrong template ● the Supplier's report is late ● the Supplier fails to submit a report
'Material Breach' (Framework Agreement)	A breach by the Supplier of the following Clauses in the Framework Agreement: <ul style="list-style-type: none"> ● Subcontracting ● Non-Discrimination ● Conflicts of Interest and Ethical Walls ● Warranties and Representations ● Provision of Management Information ● Management Charge ● Prevention of Bribery and Corruption ● Safeguarding against Fraud ● Data Protection and Disclosure ● Intellectual Property Rights and Indemnity ● Confidentiality ● Official Secrets Act ● Audit
'Material Breach' (Call-Off Contract)	A single serious breach of or persistent failure to perform as required in the Call-Off Contract

'OJEU Contract Notice'	The advertisement for this procurement issued in the Official Journal of the European Union
'Order Form'	An order in the form set out in Part A of the Call-Off Contract for Digital Outcome and Specialist Services placed by a Buyer with the Supplier
'Other Contracting Bodies'	All Contracting Bodies, or Buyers, except CCS
'Party'	<ul style="list-style-type: none"> ● for the purposes of the Framework Agreement; CCS or the Supplier ● for the purposes of the Call-Off Contract; the Supplier or the Buyer, and 'Parties' will be interpreted accordingly
'Personal Data'	Takes the meaning given in the Data Protection Legislation.
'Personal Data Breach'	Takes the meaning given in the Data Protection Legislation.
'Processing'	This has the meaning given to it under the Data Protection Legislation but, for the purposes of this Framework Agreement and Call-Off Contract, it will include both manual and automatic processing. 'Process' and 'processed' will be interpreted accordingly.
'Processor'	Takes the meaning given in the Data Protection Legislation.
'Prohibited Act'	<p>To directly or indirectly offer, promise or give any person working for or engaged by a buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> ● induce that person to perform improperly a relevant function or activity ● reward that person for improper performance of a relevant function or activity ● commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud
'Project-Specific IPRs'	<ul style="list-style-type: none"> ● Intellectual Property Rights in items, including Deliverables, created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Call-Off Contract and updates and amendments of these items

	<p>including (but not limited to) database schema; and/or</p> <ul style="list-style-type: none"> ● Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under the Call-Off Contract; <p>but not including the Supplier Background IPRs</p>
'Property'	The property, other than real property and IPR, issued or made available to the Supplier by the Buyer in connection with a Call-Off Contract
'Protective Measures'	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
'Regulations'	The Public Contracts Regulations 2015 (at http://www.legislation.gov.uk/ukxi/2015/102/contents/made) and the Public Contracts (Scotland) Regulations 2012 (at http://www.legislation.gov.uk/ssi/2012/88/made), as amended from time to time
'Regulatory Bodies'	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in the Framework Agreement or the Call-Off Contract
'Reporting Date'	The seventh day of each month following the month to which the relevant MI relates. A different date may be chosen if agreed between the Parties
'Request for Information'	A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations
'Self Audit Certificate'	The certificate in the form as set out in Framework Agreement Schedule 1 - Self Audit Certificate, to be provided to CCS by the Supplier in accordance with Framework Agreement Clause 7.6.
'Services'	Digital outcomes, digital specialists, user research studios or user research participants to be provided by the Supplier under a Call-Off Contract
'Specific Change in'	A change in the Law that relates specifically to the

Law'	business of CCS and which would not affect a Comparable Supply
'Statement of Requirements'	A statement issued by CCS or any Buyer detailing its Services requirements issued in the Call-Off Contract
'Statement of Work' (SOW)	The document outlining the agreed body of works to be undertaken as part of the Call-Off Contract between the Buyer and the Supplier. This may include (but is not limited to) the Statement of Requirements, the Deliverable(s), the completion dates, the charging method. Multiple SOWs can apply to one Call-Off Contract
'Subcontractor'	Each of the Supplier's Subcontractors or any person engaged by the Supplier in connection with the provision of the digital services as may be permitted by Clause 9.18 of the Framework Agreement or the Call-Off Contract
'Subprocessor'	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
'Supplier'	The Supplier of Digital Outcomes and Specialists services who successfully bid for Call-Off Contracts as outlined in the Contract Notice within the Official Journal of the European Union (OJEU Notice). The identifying details of the Supplier to be bound by the terms of the Call-Off Contract are set out in the Order Form.
'Supplier Background IPRs'	Background IPRs of the Supplier
'Supplier Software'	Software which is proprietary to the Supplier and which is or will be used by the Supplier for the purposes of providing the Services
'Supplier Staff'	All persons employed by the Supplier including the Supplier's agents and consultants used in the performance of its obligations under the Framework Agreement or the Call-Off Contract
'Supplier Staff Liabilities'	Any claims, actions, proceedings, orders, demands, complaints, Losses and any awards or compensation reasonably incurred in connection with any claim or investigation related to employment
'Working Day'	Any day other than a Saturday, Sunday or public holiday in England and Wales, from 9am to 5pm unless otherwise agreed with the Buyer and the Supplier in the Call-Off Contract

