

Framework Schedule 6A (Health Order Form, Statement of Work and Call-Off Schedules

CALL-OFF REFERENCE: C49239

THE BUYER: Health and Social Care Information Centre (known as NHS Digital)

BUYER ADDRESS 7 & 8 Wellington Place, Leeds, LS1 4AP

THE SUPPLIER: IBM United Kingdom Limited

SUPPLIER ADDRESS: P O Box 41, North Harbour, Portsmouth, Hampshire, PO6 3AU

REGISTRATION NUMBER: 741598

DUNS NUMBER: 210151718

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Deliverables described within it and is dated 1 October 2021.

It is issued under the Framework Contract with the reference number RM6221 for the provision of Digital Capability for Health Deliverables. Defined terms used in this Order Form shall be interpreted in accordance with Joint Schedule 1 (Definitions).

In the Call-Off Contract, a reference to a schedule numbered N, shall be interpreted as a reference to a schedule NA. For example a reference to a Call-Off Schedule 5 (Pricing Details and Expenses Policy), shall be interpreted as a reference to Call-Off Schedule 5A (Pricing Details and Expenses Policy).

The Parties intend that this Call-Off Contract will not, except for the first Statement of Work which shall be executed at the same time that the Call-Off Contract is executed, oblige the Buyer to buy or the Supplier to supply Deliverables.

The Parties agree that when a Buyer seeks further Deliverables from the Supplier under the Call-Off Contract, the Buyer and Supplier will agree and execute a further Statement of Work (in the form of the template set out in Annex 1 to this Framework Schedule 6 (Health Order Form Template, Statement of Work Template and Call-Off Schedules)).

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Upon the execution of each Statement of Work it shall become incorporated into the Buyer and Supplier's Call-Off Contract.

CALL-OFF SERVICE PROVISION(S):

| Service Provision | Description | Main Service | Extra Services |
|--|--|---------------------|-----------------------|
| DevOps Services | support for ongoing live services. | Y | N |
| Digital Definition Services | Either separately or combined GDS Discovery (as extended under Extended Discovery under Paragraph 4.3 below) and /or Alpha phases. | N | Y |
| Build and Transition Services | either separately combining GDS Beta phase and/or Retirement phases (including transition to Live). It is anticipated that Live will be covered by an appropriate competition for DevOps Services. | N | Y |
| End-to-End Development Services | with the ability to combine the full set of GDS agile phases of Discovery through to Live. | N | Y |
| Data Management (and similar) Services | primarily targeted at building, enhancing, and maintaining data assets, migrating data from one system to another and analysis and reporting from such data assets. | N | Y |

CALL-OFF INCORPORATED TERMS

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

1. This Order Form including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions) RM6221
3. ~~Framework Special Terms~~
4. Joint Schedule 11 (Processing Data) RM6221

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5. Call-Off Schedule 23 (Health Additional Call-Off Terms)
6. The following Schedules in equal order of precedence:
 - Joint Schedules for RM6221
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - Joint Schedule 5 (Corporate Social Responsibility)
 - Joint Schedule 6 (Key Subcontractors)
 - Joint Schedule 7 (Financial Difficulties)
 - ~~○ Joint Schedule 8 (Guarantee)~~
 - Joint Schedule 10 (Rectification Plan)
 - Call-Off Schedules for RM6221
 - Call-Off Schedule 1 (Transparency Reports)
 - Call-Off Schedule 2 (Staff Transfer)
 - Call-Off Schedule 3 (Continuous Improvement)
 - Call-Off Schedule 5A (Health Pricing Details and Expenses Policy)
 - ~~○ Call-Off Schedule 6 (ICT Services)~~
 - Call-Off Schedule 7 (Key Supplier Staff)
 - Call-Off Schedule 8 (Business Continuity and Disaster Recovery)
 - Call-Off Schedule 9A (Health Security)
 - Call-Off Schedule 10A (Health Exit Management)
 - Call-Off Schedule 13A (Health Implementation Plan and Testing)
 - ~~○ Call-Off Schedule 14 (Service Levels)~~
 - Call-Off Schedule 15A (Health Supplier and Contract Management)
 - Call-Off Schedule 16 (Benchmarking)
 - Call-Off Schedule 18 (Background Checks)
 - Call-Off Schedule 20 (Call-Off Specification)
 - Call-Off Schedule 24 (Health Probity)
7. CCS Core Terms (version 3.0.9)
8. Joint Schedule 5 (Corporate Social Responsibility) RM6221
9. Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

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

For the avoidance of doubt, any variation of a Joint Schedule detailed above agreed by CCS and the Supplier following the agreement of this Order Form, shall not affect

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this Call-Off Contract save where such amendment is incorporated in accordance with the provisions of this Call-Off Contract by the Buyer and the Supplier.

Any Variation to this Call-Off Contract must be agreed in writing by the Buyer and the Supplier. CCS is not entitled to vary a Call-Off Contract without the Buyer's written agreement.

CALL-OFF SPECIAL TERMS

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

Special Term 1: DEFINITIONS

The following definition is added:

"wilful misconduct" means a deliberate and wrongful act or omission by the Supplier or its Subcontractors or agents who intend that in so acting, or omitting to do something, to cause harm to the Buyer."

Special Term 2: CONFIDENTIALITY

Clause 15 of the Core Terms are amended by the addition of the following clause:

- 15.8 Notwithstanding Framework Clause 15, a Recipient Party may use any techniques, ideas or Know-How gained during the performance of a Call Off Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

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| | |
|--|---|
| CALL-OFF START DATE: | 1 October 2021 |
| CALL-OFF EXPIRY DATE: | 30 September 2023 |
| CALL-OFF INITIAL PERIOD: | 2 Years |
| CALL-OFF OPTIONAL EXTENSION PERIOD: | 6 Months |
| MINIMUM NOTICE PERIOD FOR EXTENSION(S): | 3 Months |
| HANDOVER DATE (IF APPLICABLE) – SEE CALL OFF SCHEDULE 13A | To be agreed and to the satisfaction of the Buyer no later than 30 October 2021 |
| CALL-OFF CONTRACT VALUE INITIAL PERIOD: | £10m (Exc. VAT) |

CALL-OFF DELIVERABLES

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

MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract as stated in Clause 11.2 of the Core Terms and amended by the Framework Award Form Special Terms is amended for this Call Off Contract as follows:

Each Party's total aggregate liability in each Contract Year under this Call-Off Contract (whether in tort, contract or otherwise) is no more than 150% of the Estimated Yearly Charges.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is £5m excluding VAT in the first 12 months of the Contract

CALL-OFF CHARGES

The Buyer has selected Capped Time and Materials as the basis of charging for the Call-Off Contract overall. An individual SOW may be required to be priced based on the charging methods detailed below, and which are incorporated into Call-Off Schedule 5 (Pricing Details):

- (1) Capped Time and Materials
- (2) Incremental Fixed Price
- (3) Fixed Price
- (4) A combination of one or more of the above charging methods.

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All changes to the Charges must use procedures that are equivalent to those in Paragraphs 5 or 6 in Framework Schedule 3 (Framework Prices).

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REIMBURSABLE EXPENSES

Expenses are not applicable to this Call-Off. Expenses should be built into the Call-Off rates provided within the Pricing Schedule within Call-Off Schedule 5A – Health Pricing Details and Expenses Policy.

Exceptional reimbursement expenses may be applicable under this call-off contract in circumstances in which the Buyer requires the Supplier to physically attend locations other than the Buyer and Supplier operating 'bases'. This will include planned and ad hoc attendance at the Buyers data centres.

Y

Exceptional Reimbursable Expenses are capped at [REDACTED] of Call-Off Contract value. The supplier needs to ensure this is included within the tender response.

MATERIAL KPIs

Not used

PAYMENT METHOD

In accordance with Paragraph 8 of Call-Off Schedule 15A (Health Supplier and Contract Management).

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BUYER'S INVOICE ADDRESS:

| | |
|------------------------------|---|
| Name | Health and Social Care Information Centre |
| Email address | sbs.apinvoicing@nhs.net |
| Address | T56 Payables A125 Phoenix House, Topcliffe Lane, Wakefield, WF3 1WE |
| Invoicing Information | <p>Any queries regarding outstanding payments should be directed to NHS Digital's Accounts Payable section by email at financialaccounts@nhs.net.</p> <p>Invoices should clearly quote the purchase order number, be addressed to NHS Digital, T56 Payables A125, Phoenix House, Topcliffe Lane, Wakefield, WF3 1WE and be sent as a PDF attachment by email to the following email address; sbs.apinvoicing@nhs.net (one invoice per PDF) and emails must not exceed 10Mb and quote, 'T56 Invoice Scanning' in subject line or alternatively invoices can be sent via post to the below address.</p> |

BUYER'S AUTHORISED REPRESENTATIVE

| | | |
|----------------------|--|--|
| Name | | |
| Role | | |
| Phone | | |
| Email address | | |
| Address | | |

BUYER'S ENVIRONMENTAL POLICY

The Buyer's Environmental Policy is currently under review and is due to be published as part of the Sustainable Development Management Plan in 2021. This will be shared with the supplier upon publishing for review and agreement.

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BUYER'S SECURITY REQUIREMENTS

From the Start Date of this Call-Off Contract, the Supplier shall comply with the relevant Security requirements set out in Call-Off Schedule 9A (Health Security) and the additional security requirements as detailed below.

| | |
|---|---|
| Annex 2: Data Security by Design | Y |
| Annex 3: Supplier systems: Security Testing, Security Monitoring and Reporting Procedures | Y |

BUYER'S STANDARDS REQUIREMENTS

From the Start Date of this Call-Off Contract, the Supplier shall comply with the relevant (and current as of the Call-Off Start Date) Standards set out in Annex 3 of Framework Schedule 1 (Specification).

BUYER'S MANDATORY POLICIES

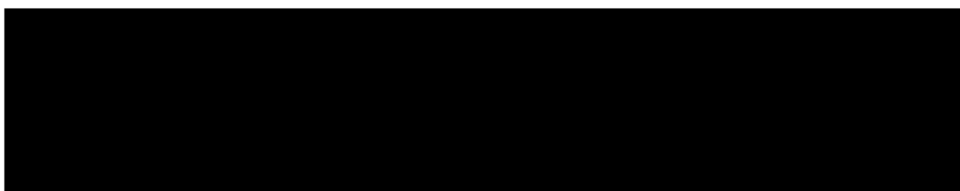
The following mandatory policies are currently being developed in line with UK legislation. These will be shared with the Supplier upon publishing for review and agreement.

The Supplier (whether Supplier employees, contractors and/or subcontractors) shall accept the Buyers mandatory policies as follows as updated from time to time:

- Confidentiality
- Code of Business Conduct
- The Register of Interests Policy
- Acceptable Use of ICT and User Obligations
- Hospitality & the Receipt of Gifts Policy
- NHS Digital Counter Fraud Policy

In the event of a difference between any Buyer policy and Supplier (or their subcontractors) policy, the Supplier accepts that, unless specifically agreed between the parties otherwise, the Buyer policy shall take precedence. The Supplier shall explicitly make the Buyer aware of any specific conflicts.

SUPPLIER'S AUTHORISED REPRESENTATIVE



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As set out in each Statement of Work under this Call-Off Contract.

KEY SUBCONTRACTOR(S)

None

TRANSITION PERIOD PROGRESS MEETING FREQUENCY

| | |
|--------------------------------|---|
| Frequency of progress meetings | Monthly or as agreed between both Parties |
|--------------------------------|---|

OFFSHORE WORKING

| | |
|--|---|
| Non-UK Suppliers or Subcontractors are required. | Y |
|--|---|

Where non-UK Subcontractors are used, the applicable rate card(s) shall be appended to Call-Off Schedule 5A (Health Pricing Details and Expenses Policy) and Services provided by such Supplier Staff or Subcontractors shall be charged at rates no greater than those set out in the applicable rate card.

Where non-UK Subcontractors are used, the Supplier shall ensure it outlines its approach for offshore delivery in accordance with Joint Schedule 11 (Processing Data) and Call-Off Schedule 9A (Security).

COMMERCIALLY SENSITIVE INFORMATION

Not applicable

BALANCED SCORECARD

See Call-Off Schedule 15A (Health Supplier and Contract Management).

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Not Applicable to this Call-Off Contract

SOCIAL VALUE COMMITMENT

| | |
|---|---|
| The Buyer wishes the Supplier to agree with the Social Values in Call-Off Schedule 4 (Call-Off Tender). | Y |
|---|---|

GRANT OF THIRD PARTY RIGHTS TO CONTROLLERS

Not Applicable to this Call-Off Contract

MAINTENANCE OF DATA PROTECTION RECORDS

| Obligation | Obligation Applies* |
|--|---------------------|
| The Processor shall maintain complete and accurate records and information to demonstrate its compliance with Joint Schedule 11 | Yes |
| * this obligation can only be changed to 'No' (i) where the Processor employs less than 250 staff, and (ii) the Controller(s) under the Contract all agree the obligation can be disapplied in accordance with the criteria in paragraph 9 of Joint Schedule 11. | |

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IMPLEMENTATION AND TRANSITION

| | |
|---|---|
| Implementation Plan is Required | Y |
| Transition Plan is Required | N |
| Call-Off Schedule 13A Health Implementation and Testing Plan Document (Completed) | Y |

STAFF TRANSFER

| Call-Off Schedule 2 (Staff Transfer) | Applies? | Interpretation |
|---|----------|--|
| There is a Staff Transfer from Buyer on entry (1 st generation) | No | If Yes, Part A of Call-Off Schedule 2 shall apply. |
| There is a Staff Transfer from former / incumbent supplier on entry (2 nd generation) | No | If Yes, Part B of Call-Off Schedule 2 shall apply. |
| There is both a 1 st and 2 nd generation Staff Transfer on entry. | No | If Yes, both Part A and Part B of Call-Off Schedule 2 shall apply. |
| <u>Pensions</u> - The following pensions shall apply to the Staff Transfer: | No | D1 (CSPS) |
| | No | D2 (NHSPS) |
| | No | D3 (LGPS) |
| | No | D4 Other Schemes (specify which ones): |
| | No | Not Applicable |
| There is no Staff Transfer (either 1 st or 2 nd generation) at the Start Date. | Yes | Part C of Call-Off Schedule 2 shall apply. |
| Part E of Call-Off Schedule 2 (Dealing with Staff Transfer on exit) shall apply to every Call-Off Contract. | | |

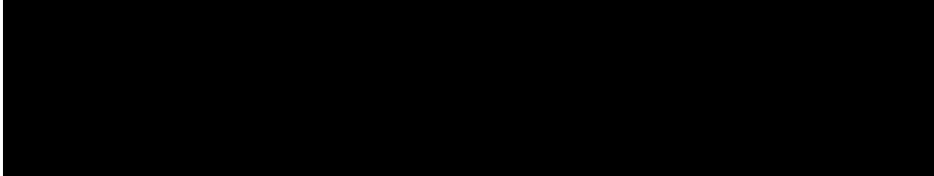
STATEMENTS OF WORK

During the Call-Off Contract Period, the Buyer and Supplier may agree and execute completed Statement of Works. Upon execution of a Statement of Work the provisions detailed therein shall be incorporated into the Call-Off Contract to which this Order Form relates.

SIGNATURES

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

Buyer Signature

A large black rectangular box redacting the signature of the Buyer.

Date: 2 November 2021

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

Supplier Signature

A large black rectangular box redacting the signature of the Supplier.

Date: 2 November 2021

Appendix 1

The first Statement(s) of Works shall be as set out in this Appendix 1 as part of the executed Order Form. Thereafter, the Buyer and Supplier shall complete and execute Statements of Work (in the form of the template Statement of Work in Annex 1 to the template Order Form in Framework Schedule 6A (Health Order Form Template, Statement of Work Template and Call-Off Schedules)).

Upon agreement by the Buyer and the Supplier, each agreed Statement of Work is deemed incorporated into this Appendix 1 as a supplementary Statement of Work.

Each Statement of Work must have a unique identifying reference.

Annex 1 (Statement of Work Template)