

## **Digital Outcomes and Specialist Framework Agreement Call-Off Contract**

This Call-Off Contract for the Digital Outcomes and Specialists Framework Agreement (RM1043iii) includes

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**Part A - Order Form**

<b>Buyer</b>	Department for Work and Pensions
<b>Buyer Address</b>	Caxton House Tothill Street London SW1H 9NA
<b>Supplier</b>	Tata Consultancy Services Limited
<b>Supplier Address</b>	18 Grosvenor Place, London SW1X 7HS
<b>Call-Off Contract/Project Ref.</b>	DOS_009a
<b>Call-Off Contract title</b>	Resource Augmentation for the Development and Live Support of the DWP Technology Children Platform
<b>Call-Off Contract description</b>	In accordance with its strategic objective DWP intends to have a core team which will be supplemented by additional supplier augmented resources that will enhance DWP's internal capability for Development and Live Support of the DWP Technology Children Platform.
<b><u>Call-Off Contract period</u></b>	
<b>Start date</b>	<b>22 February 2017</b>
<b>End date</b>	<b>21 February 2019</b>
<b>Call-Off Contract extension option</b>	N/A
<b><u>Call-Off Contract value</u></b>	
<b>Charging method</b>	Different pricing models ranging from Fixed Price, T&M and Capped T&M may be used for SoW's as agreed by the Parties.
<b>Notice period for termination for convenience</b>	In accordance with Paragraph 23.2 of Part C – Terms and conditions.
<b>Purchase order No.</b>	Project will advise upon contract signature
<b>Initial SOW package</b>	SOW_001

This Order Form is issued in accordance with the Digital Outcomes and Specialists Framework Agreement (RM1043iii).

Project reference:	DOS_009a
Buyer reference:	DOS_009a
Order date:	<b>22 February 2017</b>
Purchase order:	Project will advise upon contract signature
<b>From:</b>	[REDACTED]
<b>To:</b>	[REDACTED]
Together: the "Parties"	
Principal 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:	<b>22February 2017</b> and is valid for twenty-four (24) months.
Digital outcomes and specialists services required	<p>The Supplier is required to provide flexible capacity and capability to support DWP by providing technical specialist resource that can deliver outcomes in the areas of development activities necessary to satisfy the requirements for development/change/repair across a series of releases, and Live Support necessary to satisfy the requirements for a stable performance application/system of the DWP Technology Children Platform.</p> <p>Key technologies are Siebel, BPM, OBIEE, Adobe and Documentum.</p> <p>The new Supplier will need to gain an understanding of the existing solution to be able to provide support and to deliver future developments with minimal disruption. DWP retains the right to place resources into a team from other suppliers where a supplier or resource has a particular strength.</p> <p>Typically resource will be required to work a minimum of 7.5 hours/day, 5 days/week. NB: Some weekend work will be required for discrete project work and support resource will be required to cover 24/7 on an on call basis.</p>
Warranty period:	The Warranty is in accordance with Paragraph 6 of Part C - Contract Terms and Conditions and the Additional Buyer terms set out below.
Location:	The Supplier will be expected to be Primarily co-located with the Customer on DWP sites based within Newcastle Upon Tyne and Leeds with the ability to augment resources using a remote model.
Staff vetting procedures:	HMG Baseline Personnel Security Standard security clearance required for all staff before they will be permitted to start work.
Standards:	The Supplier will comply with all applicable DWP standards, processes, policies, and procedures. The Buyer shall identify what standards, processes, policies and procedures are applicable and provide to the Supplier accordingly.
Limit on supplier's	In accordance with Paragraph 33 of this Call-Off Contract

liability:	
Insurance:	In accordance with Paragraph 10 of this Call-Off Contract
<b>Supplier's information</b>	
Commercially sensitive information:	<p>The Supplier's methodologies, policies, processes, daily fee rates, pricing, charging mechanisms are confidential and commercially sensitive.</p> <p>All details relating to the Supplier's personnel including but not limited to, the numbers of resources with specific skills, numbers of security cleared staff, staff terms and conditions of employment and staff selection methods, as contained within Part B Schedule 2 (Supplier's response) are confidential and commercially sensitive</p> <p>Any information relating to the Supplier's other customers that has been obtained as a result of the Services or as result of procuring the Services (including pre-contract references) is commercially sensitive information.</p> <p>The Supplier's IPR or where the Supplier has reasonably and formally instructed to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss.</p>
SubSuppliers/Partners:	N/A
<b>Call off contract charges and payment</b>	
The method for payment for the call off contract charges (GPC or BACS):	BACS
Invoice details:	The Invoice shall reference the purchase order number, project reference and a breakdown of the charges being invoiced.
Who and where to send invoices to:	SSCL Accounts Payable Team Room 6124 Tomlinson House Norcross Blackpool FY5 3TA
Invoice information required (e.g. PO, project ref, etc.)	The Invoice shall reference the purchase order number, project reference and a breakdown of the charges being invoiced.
Invoice frequency:	Monthly in arrears upon acceptance from the Buyer of valid submitted timesheets and any associated costs.
Call off contract value:	<p>The maximum cumulative values of the SoW's that may be executed under this Call-Off Contract at the discretion of the Buyer (DWP) shall be a maximum of <b>£7,911,520.00</b> (inclusive of expenses) exclusive of VAT. For the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>- the maximum contracted value of each SoW is set out within the '<b>Charging Method(s) for this Release</b>' section of each SoW under Schedule 3;</li> <li>- this agreement places "no minimum commitment of spend" obligations on the Buyer;</li> <li>- this agreement is non-exclusive and the Buyer reserves the right to procure equivalent of similar services via methods at its discretion.</li> </ul>
Call off contract charges:	A combination of pricing methods agreed by the parties using the pre-agreed rate card shall be used in Part D (Charges). In addition the Buyer and Supplier shall jointly work together in good faith to create resource estimates that consists of skills required, breakdowns of the estimated effort against each anticipated key activity and overall project duration as required in accordance with the principles of the commercial engagement scenarios set out in Part I (Commercial Engagement Scenarios) of the Call-off Contract.

Additional Buyer terms		
Acceptance criteria	Deliverables shall be accepted by the Buyer when the Acceptance Criteria applicable to the Statement of Work have been achieved in accordance with the Buyers' Requirements as set out in Part B, Schedule 1 (Requirements) and the project specific Acceptance Criteria as set out in Schedule 3 (Statement of Work), paragraph 3.5 (Acceptance Criteria).	
Supplemental requirements in addition to the call off terms	DOS Call-Off Contract Clause	Change
	Definition " <b>Buyer Data</b> " is inserted at Part C, Clause 43:	This definition is inserted into the Call-Off Contract:  <b>Buyer Data:</b> the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are (i) supplied to the Supplier by or on behalf of the Buyer; or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; and  any Personal Data for which the Buyer is the Data Controller.
	Definition " <b>HMG Baseline Personnel Security Standard</b> " is inserted at Part C, Clause 43:	This definition is inserted into the Call-Off Contract:  <b>HMG Baseline Personnel Security Standard:</b> the baseline personnel security standard as set out at <b>Part E</b> (HMG Baseline Personnel Security Standard) of this Call-Off Contract, which includes guidance for DWP Suppliers.
	Definition " <b>General Data Protection Regulation</b> " or " <b>GDPR</b> " is inserted at Part C, Clause 43	This definition is inserted into the Call-Off Contract:  <b>General Data Protection Regulation:</b> the Regulation of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (repealing the Data Protection Directive 95/46/EC), together with the codes of practice, codes of conduct, regulatory guidance and standard clauses and other related legislation resulting from the GDPR, as updated from time to time;
	Definition " <b>Offshoring Policy</b> " is inserted at Part C, Clause 43:	This definition is inserted into the Call-Off Contract:  <b>Offshoring Policy:</b> the policy as set out at Part F (Offshoring Policy) of this Call-Off Contract.
	Definition " <b>Regulatory Bodies</b> " is amended at Part C, Clause 43:	<b>Regulatory Bodies:</b> those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Buyer and "Regulatory Body" shall be construed accordingly.
	Part C, Clause 2.5 is amended:	Clause 2.5 is amended to read as follows:  2.5 The Supplier will comply with the Buyer's vetting procedures for all or part of the Supplier Staff. Such vetting procedures shall include, but not be limited to, the HMG Baseline Personnel Security Standard in respect of all persons who are employed or engaged by the Supplier in provision of this Call-Off Contract. This is not a security check as such but a package of pre-employment checks covering identity, employment history, nationality/immigration

		status and criminal records designed to provide a level of assurance.
	Part C, Clauses 14.4 is inserted:	<p>These clauses shall be inserted into the Call-Off Contract:</p> <p>14.4 The Parties acknowledge that the General Data Protection Regulation is scheduled to come into force on 25 May 2018. From and including 25 May 2018, each Party shall comply with its obligations under the General Data Protection Regulation in relation to the Services and/or this Call-Off Contract, including by adhering to any relevant codes of conduct published pursuant to Article 40 of the GDPR. In readiness for compliance with the GDPR, the Supplier shall provide a report to the Buyer no later than 25 November 2017 setting out:</p> <p>14.4.1 how the Supplier will meet the direct obligations placed on it as a Processor in the GDPR;</p> <p>14.4.2 how the Supplier will ensure that its provision of the Services and the performance of its other obligations under the Agreement are in compliance with the GDPR;</p> <p>14.4.3 how the Supplier will ensure that the Customer is provided with any information or assistance which it requires from the Supplier to ensure it can comply with its own obligations under the GDPR; and</p> <p>14.4.5 any other issues which the Customer reasonably requires the Supplier to address in relation to preparation for the GDPR.</p>
	Part C, Clauses 14.5 is inserted:	<p>These clauses shall be inserted into the Call-Off Contract:</p> <p>14.5 The Parties shall discuss and agree the GDPR compliance report in good faith and develop such implementation measures as are required to ensure any actions required to be adopted in relation to the Services are applied in advance of the effective date of the GDPR, such measures to be adopted through the Change Procedure via CCN and in accordance with Schedule 4 of this Call-Off Contract. For the avoidance of doubt, the Supplier shall not be required to ensure that its provision of the Services or its other obligations under this Call-Off Contract comply with the provisions of the GDPR until 25 May 2018, although it may elect or agree to become compliant before that date.</p>
	Part C, Clause 14.6 is inserted:	<p>This clause shall be inserted into the Call-Off Contract:</p> <p>14.6 Notwithstanding this clause 14 the Supplier shall comply with the Buyer's Offshoring Policy. In the case of any conflict between this Call-Off Contract and the terms of the Offshoring Policy, the Supplier shall immediately notify the Buyer and the Parties shall discuss, and the Buyer shall agree, the appropriate requirements for the Supplier to satisfy its obligations under this clause 14.6.</p>

	<p>Part C, Clause 17.2 is inserted:</p>	<p>This clause shall be inserted into the Call-Off Contract:</p> <p><b>17.2 Audit and National Audit Office</b></p> <p>17.2.1 The Supplier shall keep and maintain until six (6) years after the end of the Call-Off Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Call-Off Contract including the Services supplied under it, all expenditure reimbursed by the Buyer, and all payments made by the Buyer. The Supplier shall on request afford the Buyer or the Buyer's representatives such access to those records as may be requested by the Buyer in connection with the Call-Off Contract.</p> <p>17.2.2 The Supplier including its staff (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purpose of his financial audit of the Buyer and for carrying out examinations into the economy, efficiency and effectiveness with which the Buyer has used its resources. The Supplier shall provide such explanations as are reasonably required for these purposes. This clause does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under Section 6(3) (d) and (5) of the National Audit Act 1983.</p> <p>17.2.3 Except where an audit is imposed on the Buyer by a Regulatory Body, the Authority may at any time during the Call-Off Contract Period and for a period of twelve (12) months after the Call- Off Contract Period, conduct an audit for the following purposes:</p> <ul style="list-style-type: none"> <li>a) to verify the accuracy of any charges that become due and payable by the Buyer to the Supplier in respect of the Services (and proposed or actual variations to them in accordance with the Call-Off Contract), or the costs of all suppliers used by the Supplier (including Sub-Suppliers) in the provision of Services;</li> <li>b) to review the integrity, confidentiality and security of the Buyer Data;</li> <li>c) to review the Supplier's compliance with the Data Protection Act 1998, Freedom Of Information Act 2000 and other Law applicable to the Services;</li> <li>d) to review the Supplier's compliance with its obligations under this Call-Off Contract;</li> <li>e) to review any records created during the provision of the Services;</li> <li>f) to review any books of account kept by the Supplier in connection with the provision of the Services;</li> </ul>	
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		<p>g) to carry out the audit and certification of the Supplier's accounts;</p> <p>h) to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Supplier has used its resources; and</p> <p>i) to verify the accuracy and completeness of any management information delivered or required by this Call-Off Contract.</p> <p>17.2.4 The Buyer shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.</p> <p>17.2.5 Subject to the Buyer's obligations of confidentiality, the Supplier shall on demand provide the Buyer, the Comptroller and Auditor General and any relevant Regulatory Body (and/or their agents or representatives) with all reasonable co-operation, access and assistance in relation to each audit, including:</p> <p>a) all Information requested within the permitted scope of the audit;</p> <p>b) reasonable access to any premises or sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;</p> <p>c) access to the Supplier Staff;</p> <p>d) access to the Supplier Software and ICT environment</p> <p>17.2.6 The Buyer shall endeavour to (but is not obliged to) provide at least fifteen (15) calendar days' notice of its intention to conduct an audit.</p> <p>17.2.7 If an audit identifies that:</p> <p>a) the Supplier has committed a material Default capable of remedy, the Supplier shall correct such Default as soon as reasonably practicable and implement a remedial plan within a time limit specified by the Buyer;</p> <p>b) the Buyer has overpaid any charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Supplier shall pay to the Buyer the amount overpaid within twenty (20) Working Days. The Buyer may deduct the relevant amount from the charges if the Supplier fails to make this payment; and</p> <p>c) the Buyer has underpaid any charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Buyer shall pay to the Supplier the amount of the under-payment less the cost of audit incurred by the Buyer if this was due to a Default by the Supplier within twenty (20)</p>	
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		Working Days.	
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	<p>Part C, Clause 17.3 is inserted:</p>	<p>This clause shall be inserted into the Call-Off Contract:</p> <p><b>17.3 Exceptional Audits</b></p> <p>17.3.1 The Supplier shall permit the Buyer and/or its appointed representative's access to conduct an audit (an "<b>Exceptional Audit</b>") of the Supplier in any of the following circumstances:</p> <ul style="list-style-type: none"> <li>a) actual or suspected impropriety or fraud;</li> <li>b) there are reasonable grounds to suspect that: <ul style="list-style-type: none"> <li>(i) the Supplier is in Default under the Call- Off Contract;</li> <li>(ii) the guarantor may be in default of the Guarantee;</li> <li>(iii) the Supplier is in financial distress or at risk of insolvency or bankruptcy, or any fact, circumstance or matter which is reasonably likely to cause the Supplier financial distress and result in a risk of the Supplier becoming insolvent or bankruptcy has occurred; or</li> <li>(iv) a breach of the Security Management Plan or Information Security Management System has occurred under the Call-Off Contract,</li> </ul> </li> </ul> <p>(each an "<b>Exceptional Circumstance</b>")</p> <p>17.3.2 If the Buyer notifies the Supplier of an Exceptional Circumstance and that it wishes to conduct an Exceptional Audit, the Supplier shall provide access in accordance with clause 17.2.5 as soon as reasonably practicable after such request and in any event within forty eight (48) hours.</p>	
	<p>Part C, Clause 17.4 is inserted:</p>	<p>This clause shall be inserted into the Call-Off Contract:</p> <p><b>17.4 Audit Costs</b></p> <p>17.4.1 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under clauses 17.1 to 17.3 unless an audit identifies a material Default by the Supplier in which case the Supplier shall reimburse:</p> <ul style="list-style-type: none"> <li>a) the Buyer for all the Buyer's identifiable, reasonable costs and expenses properly incurred in the course of the audit; and</li> <li>b) where the Authority, a Regulatory Body, or the Comptroller and Auditor General appoint another Contracting Body to conduct an audit under this clause, the Buyer shall be able to recover on demand from the Supplier the identifiable, reasonable and properly incurred costs and expenses of the relevant Contracting Body.</li> </ul>	

	Part C, Clause 24.7	<p>This clause shall be inserted into the Call-Off Contract:</p> <p>24.7 The Supplier warrants that the Services that are ordered under this Call-Off Agreement will be provided on a leveraged basis as a consequence of which there will not be a “relevant transfer” under the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced or any other regulations implementing the Acquired Rights Directive (the “Employment Regulations”) of the contracts of employment of those employees of the Supplier and/or the Supplier's Sub-Suppliers engaged in the provision of the Services (or any part thereof) (“Relevant Employees”) on the cessation of any of the Services. If any Relevant Employee claims, or it is determined, that his/her contract of employment has been transferred from the Supplier and/or the Supplier's Sub-Suppliers to the Buyer or a replacement supplier of the Services pursuant to the Employment Regulations, the Supplier shall indemnify the Buyer and/or any such replacement supplier against all losses, fines, penalties, awards, liabilities, costs, claims, actions, damages or expenses (including reasonable legal fees), which they may incur, directly or indirectly:</p> <p>24.7.1 in connection with the employment or the termination of employment of such Relevant Employees at any time up to cessation or partial cessation of the Services;</p> <p>24.7.2 in connection with the employment or termination of employment of any Relevant Employees from and including the date of cessation or partial cessation of the Services provided the Buyer and/or any replacement supplier terminates the employment of any Relevant Employees (in so far as it has not already terminated) within 30 Business Days of becoming aware of such transfer or alleged transfer; and</p> <p>24.7.3 as a result of any failure to comply with regulation 13 or regulation 14 of the Employment Regulations in respect of any Relevant Employees.</p>	
	Part C, Clause 36.1 is amended:	<p>Clause 36.1 is amended to read as follows:</p> <p>36.1 The Supplier shall not, and shall ensure that any staff shall not, commit any Prohibited Act.</p>	
	Part C, Clause 36.2 is inserted:	<p>This clause shall be inserted into the Call-Off Contract:</p> <p>36.2 If the Supplier, its staff or anyone acting on the Supplier's behalf engages in a Prohibited Act, the Buyer may:</p> <p>36.2.1 terminate the Call-Off Contract and recover from the Supplier the amount of any Loss suffered by the Buyer resulting from termination, including but not limited to the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Buyer throughout the remainder of the Call-Off Contract Period; and</p> <p>36.2.2 recover in full from the Supplier any other Loss sustained in consequence of any default of this</p>	

		clause 36.				
	Part C, Clause 36.3 and 36.4 is inserted:	<p>These clauses shall be inserted into the Call-Off Contract:</p> <p>36.3 Notwithstanding clause 22 (Managing Disputes), any dispute relating to:</p> <p>a) the interpretation of clause 36.1; or</p> <p>b) the amount or value of any gift, consideration or Buyer,</p> <p>shall be determined by the Buyer, acting reasonably having given due consideration to all relevant factors, and its decision shall be final and conclusive.</p> <p>36.4 Any termination under clause 36.2 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Buyer.</p>				
Buyer specific amendments to/refinements of the Call-Off Contract Terms	<p>Definitions</p> <table><tr><td><b>'Priority 1 Incident'</b></td><td>Incident having major critical business impact causing complete failure of the Application and/or Service affecting all users at Key sites</td></tr><tr><td><b>"Priority 2 Incident"</b></td><td><p>Incident having</p><ul style="list-style-type: none"><li>Critical business impact caused due to complete failure of the Application (and/or service) affecting all users at a site</li></ul><p>OR</p><ul style="list-style-type: none"><li>Critical business impact caused due to partial failure of the application (and/or service) affecting all users at a key site or multiple secondary sites</li></ul></td></tr></table>		<b>'Priority 1 Incident'</b>	Incident having major critical business impact causing complete failure of the Application and/or Service affecting all users at Key sites	<b>"Priority 2 Incident"</b>	<p>Incident having</p> <ul style="list-style-type: none"><li>Critical business impact caused due to complete failure of the Application (and/or service) affecting all users at a site</li></ul> <p>OR</p> <ul style="list-style-type: none"><li>Critical business impact caused due to partial failure of the application (and/or service) affecting all users at a key site or multiple secondary sites</li></ul>
<b>'Priority 1 Incident'</b>	Incident having major critical business impact causing complete failure of the Application and/or Service affecting all users at Key sites					
<b>"Priority 2 Incident"</b>	<p>Incident having</p> <ul style="list-style-type: none"><li>Critical business impact caused due to complete failure of the Application (and/or service) affecting all users at a site</li></ul> <p>OR</p> <ul style="list-style-type: none"><li>Critical business impact caused due to partial failure of the application (and/or service) affecting all users at a key site or multiple secondary sites</li></ul>					
Specific Terms	N/A					
<b>Formation of contract</b>						
<p>1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.</p> <p>1.2 The parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.</p> <p>1.3 In accordance with the Further Competition procedure set out in 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").</p> <p>1.4 The Call-Off Contract outlines the Deliverables of the agreement. The Order Form outlines any amendment within the Call-Off Contract. The terms and conditions of the Call-Off Contract Order Form will supersede those of the Call-Off Contract standard terms and conditions.</p>						
<b>2. Background to the agreement</b>						
<p>(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 RM1043iii (the "Framework Agreement").</p> <p>(B) The Buyer served an Order Form for Services to the Supplier on the date stated in the Call-Off Contract.</p> <p>(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.</p>						

<b>SIGNED:</b>		
	<b>Supplier:</b>	<b>Buyer:</b>
<b>Name:</b>	[REDACTED]	[REDACTED]
<b>Title:</b>	[REDACTED]	[REDACTED]
<b>Signature:</b>	[REDACTED]	[REDACTED]
<b>Date:</b>	[REDACTED]	[REDACTED]

## **Part B - The Schedules**

### **Schedule 1 - Requirements**

#### **1.1 The Authority Requirements**



DOS\_009a Portal  
Requirements FINAL



1) DOS\_009a  
Request for Proposal.

### **Schedule 2 - Supplier's response**

[REDACTED]

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

#### Sch 3.1 SOW Details

<b>Date of SOW:</b>	<b>22 February 2017</b>																																								
<b>SOW Reference:</b>	DOS_009a-01																																								
<b>Buyer:</b>	Department for Work and Pensions (DWP)																																								
<b>Supplier:</b>	Tata Consultancy Services Ltd (TCS)																																								
<b>Release Type(s):</b>	Discovery Phase																																								
<b>Phase(s) of Development:</b>	Analysis, Design and Scoping for Verify Project																																								
<b>Release Completion Date:</b>	<b>28 April 2017</b>																																								
<b>Duration of SOW</b>	Please refer to Appendix A (Charges)																																								
<b>Charging Method(s) for this Release:</b>	<p>Time and Materials (T&amp;M)</p> <p>The total Charges (excluding VAT) for this SoW shall not exceed [REDACTED], consisting of:</p> <table border="1"> <thead> <tr> <th></th><th></th><th></th><th><b>Daily Rate (Inclusive of Travel, Accommodation &amp; Expenses)<sup>1</sup></b></th><th><b>Number of Person Days</b></th><th><b>Total Estimated Charges</b></th></tr> <tr> <th><b>Role</b></th><th><b>DWP Equivalent</b></th><th><b>Location</b></th><th></th><th></th><th></th></tr> </thead> <tbody> <tr> <td>Solution Architect</td><td>Solution Architect</td><td>Onsite</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr> <td>IAM Architect</td><td>Solution Architect</td><td>Onsite</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr> <td>Portal Designer</td><td>Business Architect</td><td>Onsite</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr> <td><b>Total</b></td><td></td><td></td><td></td><td></td><td>[REDACTED]</td></tr> </tbody> </table> <p><b><u>Chargeable Travel, Accommodation &amp; Expenses Limit</u></b></p> <p>Expenses for local travel and stay shall be paid in accordance with the DWP Travel, Accommodation and Expense Policy set out within Part G of the Call-Off Contract and shall in no event exceed [REDACTED] (excluding VAT).</p>								<b>Daily Rate (Inclusive of Travel, Accommodation &amp; Expenses)<sup>1</sup></b>	<b>Number of Person Days</b>	<b>Total Estimated Charges</b>	<b>Role</b>	<b>DWP Equivalent</b>	<b>Location</b>				Solution Architect	Solution Architect	Onsite	[REDACTED]	[REDACTED]	[REDACTED]	IAM Architect	Solution Architect	Onsite	[REDACTED]	[REDACTED]	[REDACTED]	Portal Designer	Business Architect	Onsite	[REDACTED]	[REDACTED]	[REDACTED]	<b>Total</b>					[REDACTED]
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Portal Designer	Business Architect	Onsite	[REDACTED]	[REDACTED]	[REDACTED]																																				
<b>Total</b>					[REDACTED]																																				

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:

<sup>1</sup> Refer to Part D Charges – Paragraph 3 of the Call-Off Contract.



Name	[REDACTED]
Role	Solution Architect
Details	[REDACTED]

Name	[REDACTED]
Role	Designer
Details	[REDACTED]

Name	[REDACTED]
Role	Solution Architect
Details	[REDACTED]

### Sch 3.3 Deliverables

[REDACTED]

### 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 (except where applicable in the Call-Off Contract) 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.

3.4.2 The Supplier will provide a detailed breakdown of rates based on time and materials Charges, inclusive of expenses (except where applicable in the Call-Off Contract) 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;
- 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

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

- Total value of this SOW
- Overall Call-Off Contract Charge
- Remainder of value under overall Call-Off Contract Charge
  - Where: Remainder of value under overall Call-Off Contract Charge = overall Call-Off Contract Charge - sum of total value of all SOWs invoiced

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

3.4.3 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.

[REDACTED]

3.4.4 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.

3.4.5 Multiple SOWs can operate concurrently.

3.4.6 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)

### **3.5 SOW Acceptance Criteria**

3.5.1 [REDACTED]

### Sch 3.6 Agreement of statement of works

BY SIGNING this SOW, the parties agree to be bound by the terms and conditions set out herein:

**For and on behalf of the supplier:**

Name	[REDACTED]
Title	[REDACTED]
Date	[REDACTED]
Signature	[REDACTED]

**For and on behalf of the departmental Buyer:**

Name	[REDACTED]
Title	[REDACTED]
Date	[REDACTED]
Signature	[REDACTED]

If the overall Call-Off Contract value is exceeded and Supplier Staff are still required to deliver the services, then a contract change note (CCN) must be raised, explaining the reason(s) for the extension.

#### **Schedule 4 - Contract Change Notice (CCN) Template**

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

BETWEEN:

**Department for Work and Pensions ("the Buyer")**

and

**Tata Consultancy Services Limited ("the Supplier")**

- 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;***

- Words and expressions in this Contract Change Notice shall have the meanings given to them in the Call-Off Contract.

- 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:	
Date:	
Name:	
Address:	

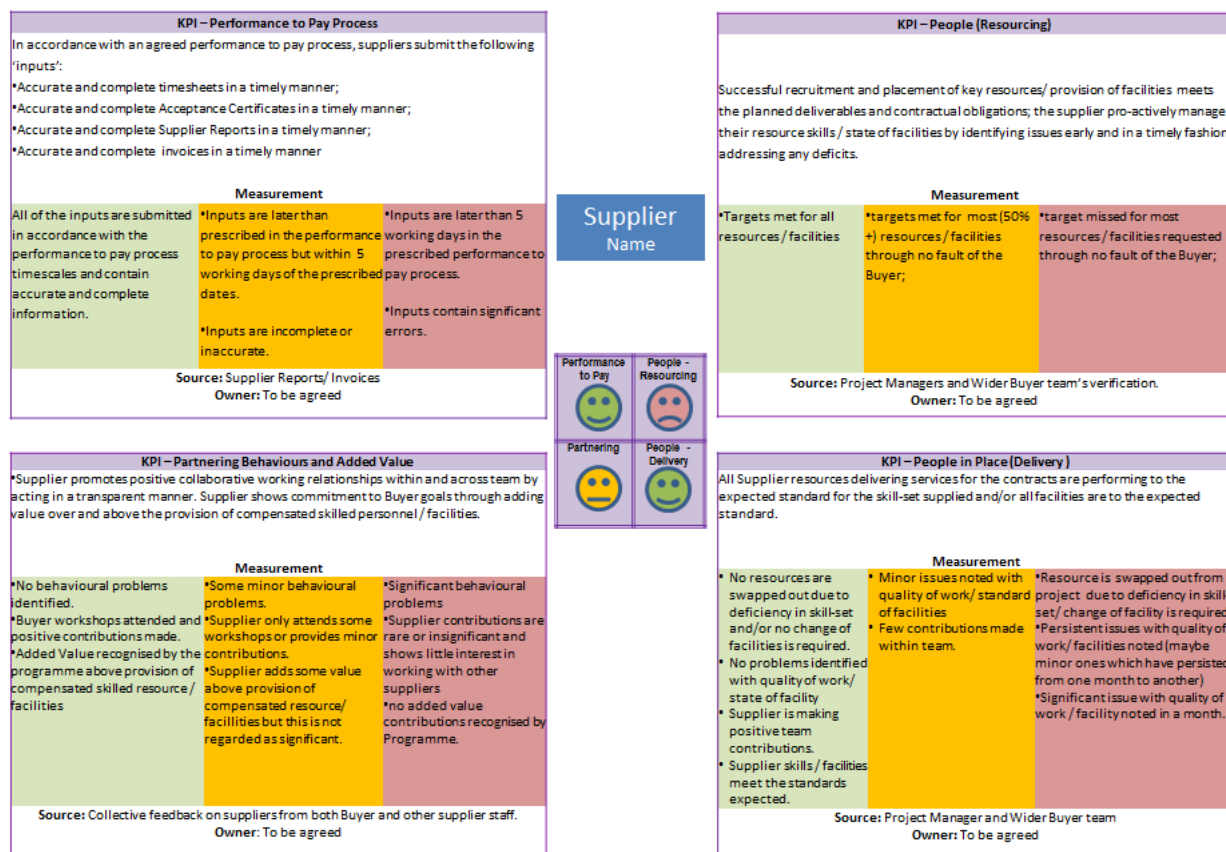
#### **Signed by an authorised signatory to sign for and on behalf of the Supplier**

Signature:	
Date:	
Name:	
Address:	

## Schedule 5 - Balanced Scorecard

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

# Balanced Scorecard



The purpose of the Balanced Scorecard is to promote contract management activity, through measurement of a Supplier's performance against Key Performance Indicators. Each of the four (4) respective KPI areas listed above shall bear a weighting of 25% and each sub-measurement (Green, Amber, Red) shall bear the following weightings:

- Green – Awarded a core of Two (2) Points (100% of 25% section weighting)
- Amber – Awarded a score of One (1) Point (50% of 25% section weighting)
- Red – Awarded a score of Zero (0) Points (0% of 25% section weighting)

- On a monthly basis, both the Buyer and the Supplier provide a rating on the Supplier's performance
- Following the initial rating, both Parties meet to review the scores and agree an overall final score for each Key Performance Indicator
- Following agreement of final scores, the process is repeated on a monthly basis as per the agreed schedule
- In the event, performance levels are not achieved (Red) the Buyer and Supplier shall agree an improvement plan, inclusive of remedial actions and timescales.
- To enable CSS to measure the performance of the Framework Agreement, final scores shall be emailed to [cloud\\_digital@crownccommercial.gov.uk](mailto:cloud_digital@crownccommercial.gov.uk).

**Schedule 6 - Optional Buyer terms and conditions**

NOT USED

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

NOT USED

**Schedule 8 - Deed of guarantee**

NOT USED



## **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 The term of this Call-Off Contract will end on the Call-Off Contract period end date listed in the Order Form, or the latest completion date for a Deliverable specified in the final SOW (unless terminated earlier), whichever is the soonest.

1.4 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 this 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 (such approval process to be agreed between the Parties).

### **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 this Call-Off Contract period.

4.3 The Supplier will ensure that it complies with any additional staff vetting procedures as 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 this Call Off Contract and not just at Further Competition. Both parties agree to share such information freely.

5.2 Further to 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 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 this 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 will 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 this 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 this 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 this 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.

## 10. Insurance

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

### 10.1 SubSuppliers

10.1.1 The Supplier will ensure that, during this Call-Off Contract, SubSuppliers 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 this 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 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 this 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 Supplier 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 this 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 un-renewed 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 this 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 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 this 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 this 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 this 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 this 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 this 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 this 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 this 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 this 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 SubSuppliers engaged in providing any of the Services (or part thereof) provided that any such SubSupplier 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 SubSupplier; and
- is granted solely to the extent necessary for the provision of the Services in accordance with this Call-Off Contract. The Supplier will ensure that the SubSuppliers do not use the licensed materials

for any other purpose.

13.8 At the end of the term of this 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 Act (DPA)) on the terms of the Open Government Licence v3.0.

13.9 Subject to the above paragraph, 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 this Call-Off Contract will need to be varied in accordance with clause 29 '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 this 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 this 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 this Call-Off Contract, the Supplier will, at the Supplier's own expense and subject to 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 this 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 this Call-Off Contract for Material Breach (Call-Off Contract) 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 this 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, 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 Supplier shall comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with this Framework Agreement or under any Call-Off Contract.

14.2 Where the Supplier is processing Buyer Data or Other Contracting Bodies' Personal Data, the Supplier shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the Authority and Other Contracting Bodies' Personal Data (and to guard against unauthorised or unlawful processing or accidental loss, destruction of or damage to the Buyer Data and the Other Contracting Bodies' Personal Data).

14.3 The Supplier shall provide the Buyer and/or Other Contracting Body with such information as the Buyer and/or Other Contracting Body may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA including;

- to promptly notify the Buyer and/or Other Contracting Body of any breach of the security measures to be put in place pursuant to this Clause; and
- to ensure that it does not knowingly or negligently do or omit to do anything which places the Buyer and/or Other Contracting Body in breach of its obligations under the DPA and
- not to cause or permit to be processed, stored, accessed or otherwise transferred outside the European Economic Area any Buyer Data or Other Contracting Body Personal Data supplied to it by the Buyer

or Other Contracting Body without approval.

## **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 this 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 then 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 Act. 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 Act. This is an absolute obligation and is not qualified by any other provision of this 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 this 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 this Call-Off Contract and the provision of Management Information.

## **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 this 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 this 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 this 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, available at: <https://www.gov.uk/government/publications/cyber-risk-management-a-board-level-responsibility/10-steps-summary>

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 this Call-Off Contract.

## **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 procedure will prevent 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 reduced to 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 this 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
- otherwise is 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 this Call-Off Contract, the obligations of the Parties under this 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 this Call-Off Contract at all times.

## **23. Termination**

23.1 The Buyer will have the right to terminate this Call-Off Contract at any time by giving the notice to the Supplier specified in Part A, 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 this 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 this 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 33 (Liability), if the Buyer terminates this 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 this 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 this 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 this Call-Off Contract (other than failure to pay any amounts due under this 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, CCS is entitled to terminate this Call-Off Contract.

## **24. Consequences of termination**

24.1 If the Buyer contracts with another Supplier, the Supplier will comply with clause 28.

24.2 The rights and obligations of the Parties in respect of this Call-Off Contract (including any executed SOWs) will automatically terminate upon the expiry or termination of this 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 this Call-Off Contract;
  - any materials created by the Supplier under this 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 pursuant to clause 41. 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 this 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, 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 this 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 this Call-Off Contract states otherwise.

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

- any rights, remedies or obligations accrued under this 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 Expiry or Termination
  - 33 - Liability
  - 34 - Waiver and cumulative remedies
- any other provision of the Framework Agreement or this 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 this Call-Off Contract.

## **25. Supplier's status**

25.1 The Supplier is an independent Supplier 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 this 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 this 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. Help at retendering and handover to replacement supplier

28.1 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.

28.2 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.

## 29. Changes to services

29.1 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.

29.2 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.

## 30. Contract changes

30.1 All changes to this Call-Off Contract which cannot be accommodated informally as described in clause 29 will require a Contract Change Note.

30.2 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 Note**') 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 Note. Neither Party will unreasonably withhold or delay consent to the other Party's proposed changes to this Call-Off Contract.

30.3 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.

### **31. Force Majeure**

31.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this 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 this Call-Off Contract for the length of a Force Majeure event. If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 15 consecutive calendar days, the other Party may terminate this Call-Off Contract with immediate effect by notice in writing.

### **32. Entire agreement**

32.1 This 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.

32.2 Each Party agrees that in entering into this Call-Off Contract it does not rely on, and will have no remedy relating to, any agreement or representation (whether negligently or innocently made) other than as expressly described in this Call-Off Contract.

32.3 Nothing in this clause will exclude any liability for (or remedy relating to) fraudulent misrepresentation or fraud.

32.4 Each of the Parties agrees that in entering into this 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 this Call-Off Contract.

### **33. Liability**

33.1 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.

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

33.3 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 33.3 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 33.3 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 this 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 33.3 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 this Call-Off Contract in the 6 months immediately before the end of the Call-Off Contract period.

33.4 Subject to clause 33.1, 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.

33.5 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.

33.6 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.

33.7 Unless otherwise expressly provided, the obligations of the Buyer under this Call-Off Contract are obligations of the Buyer in its capacity as a Contracting counterparty and nothing in this 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 this Call-Off Contract on the part of the Buyer to the Supplier.

33.8 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.

33.9 Nothing in this clause will exclude any liability for (or remedy relating to) fraud.

#### **34. Waiver and cumulative remedies**

34.1 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.

34.2 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.

#### **35. Fraud**

35.1 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.

35.2 If the Supplier commits any fraud relating to a Framework Agreement, this 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 35.3 below or by any other remedy available in law.

35.3 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.

#### **36. Prevention of bribery and corruption**

36.1 The Supplier will not commit any Prohibited Act.

36.2 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 Buyer; and
- any other loss sustained by CCS and/or the Buyer in consequence of any breach of this clause.

37. Legislative change

37.1 The Supplier will neither be relieved of its obligations under this 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.

38. Publicity, branding, media and official enquiries

38.1 The Supplier will take all reasonable steps to not do anything which may damage the public reputation of the Buyer. The Buyer may terminate this 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.

#### **39. Non Discrimination**

39.1 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.

#### **40. Premises**

40.1 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.

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

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

40.4 This clause does not create an tenancy or exclusive right of occupation.

40.5 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.

40.6 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.

40.7 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.

#### **41. Equipment**

41.1 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.

41.2 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.

#### **42. Law and jurisdiction**



42.1 This 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.

#### 43. Defined Terms

<b>'Application'</b>	The response submitted by the Supplier to the Invitation to Tender
<b>'Assurance'</b>	The verification process undertaken by CCS as described in section 5 of the Framework Agreement
<b>'Background IPRs'</b>	For each Party: <ul style="list-style-type: none"> <li>• IPRs owned by that Party before the date of this Call-Off Contract, including IPRs contained in any of the Party's know-how, documentation, processes and procedures;</li> <li>• IPRs created by the Party independently of this Call-Off Contract; and/or</li> <li>• For the Buyer, Crown Copyright which is not available to the Supplier otherwise than under this Call-Off Contract; but excluding IPRs owned by that Party subsisting in Buyer Software or Supplier Software</li> </ul>
<b>'Buyer'</b>	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
<b>'Buyer Background IPRs'</b>	Background IPRs of the Buyer
<b>'Buyer's Confidential Information'</b>	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')
<b>'Buyer Data'</b>	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
<b>'Buyer Software'</b>	Software owned by or licensed to the Buyer (other than under or pursuant to this Agreement), which is or will be used by the Supplier for the purposes of providing the Services
<b>'Call-Off Contract'</b>	This legally binding agreement (entered into following the provisions of the Framework Agreement) for the provision of Services made between a Buyer and the Supplier  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
<b>'Charges'</b>	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
<b>'Commercially Sensitive Information'</b>	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
<b>'Comparable Supply'</b>	The supply of services to another customer of the Supplier that are the same or similar to any of the Services
<b>'Confidential Information'</b>	CCS's Confidential Information or the Supplier's Confidential Information, which may include (but is not limited to): <ul style="list-style-type: none"> <li>any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li> <li>any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')</li> </ul>
<b>'Contracting Bodies'</b>	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
<b>'Control'</b>	Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly
<b>'Crown'</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, Buyers or agencies from time to time carrying out functions on its behalf
<b>'Default'</b>	<ul style="list-style-type: none"> <li>any breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li> <li>any other default, act, omission, negligence or negligent statement of the Supplier, of its SubSuppliers or any Supplier Staff in connection with or in relation to this Framework Agreement or this Call-Off Contract</li> </ul> <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</p>

	of the Call-Off Contract, the Supplier is liable to the Buyer
<b>'Deliverable'</b>	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
<b>'Digital Marketplace'</b>	The government marketplace where Services will be bought ( <a href="https://www.digitalmarketplace.service.gov.uk/">https://www.digitalmarketplace.service.gov.uk/</a> )
<b>'Equipment'</b>	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract
<b>'FoIA'</b>	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 Buyer or relevant Government department in relation to such legislation
<b>'Framework Agreement'</b>	The Framework Agreement between CCS and the Supplier for the provision of the Services dated [x]
<b>'Further Competition'</b>	The Further Competition procedure as described in Section 3 - how Services will be bought.
<b>'Good Industry Practice'</b>	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 ( <a href="https://www.gov.uk/service-manual/technology/code-of-practice.html">https://www.gov.uk/service-manual/technology/code-of-practice.html</a> ) and the government service design manual ( <a href="https://www.gov.uk/service-manual">https://www.gov.uk/service-manual</a> )
<b>'Group'</b>	A company plus any subsidiary or holding company. 'Holding company' and 'Subsidiary' are defined in section 1159 of the Companies Act 2006
<b>'Group of Economic Operators'</b>	A partnership or consortium not (yet) operating through a separate legal entity.
<b>'Holding Company'</b>	As described in section 1159 and Schedule 6 of the Companies Act 2006
<b>'Information'</b>	As described under section 84 of the Freedom of Information Act 2000, as amended from time to time
<b>'Insolvency Event'</b>	may be: <ul style="list-style-type: none"> <li>• a voluntary arrangement</li> <li>• a winding-up petition</li> <li>• the appointment of a receiver or administrator</li> <li>• an unresolved statutory demand</li> <li>• a Schedule A1 moratorium</li> </ul>
<b>'Intellectual Property Rights' or 'IPR'</b>	means: <ul style="list-style-type: none"> <li>a) copyright, rights related to or affording protection</li> </ul>

	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; 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 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.
<b>'Key Staff'</b>	Means the Supplier Staff named in the SOW as such
<b>'KPI Target'</b>	The acceptable performance level for a key performance indicator (KPI)
<b>'Law'</b>	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
<b>'Loss'</b>	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and 'Losses' will be interpreted accordingly
<b>'Lot'</b>	A subdivision of the Services which are the subject of this procurement as described in the OJEU Contract Notice
<b>'Malicious Software'</b>	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.
<b>'Management Charge'</b>	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
<b>'Management Information'</b>	The Management Information (MI) specified in section 6 of the Framework Agreement
<b>'Management Information (MI) Failure'</b>	If any of the below instances occur, CCS may treat this as an 'MI Failure': <ul style="list-style-type: none"> <li>• there are omissions or errors in the Supplier's submission</li> <li>• the Supplier uses the wrong template</li> <li>• the Supplier's report is late</li> </ul>

	<ul style="list-style-type: none"> <li>the Supplier fails to submit a report</li> </ul>
<b>'Material Breach (Framework Agreement)'</b>	<p>A breach by the Supplier of the following Clauses in the Framework Agreement:</p> <ul style="list-style-type: none"> <li>Subcontracting</li> <li>Non-Discrimination</li> <li>Conflicts of Interest and Ethical Walls</li> <li>Warranties and Representations</li> <li>Provision of Management Information</li> <li>Management Charge</li> <li>Prevention of Bribery and Corruption</li> <li>Safeguarding against Fraud</li> <li>Data Protection and Disclosure</li> <li>Intellectual Property Rights and Indemnity</li> <li>Confidentiality</li> <li>Official Secrets Act</li> <li>Audit</li> </ul>
<b>'Material Breach (Call-Off Contract)'</b>	A single serious breach of or persistent failure to perform as required in the Call-Off Contract
<b>'OJEU Contract Notice'</b>	The advertisement for this procurement issued in the Official Journal of the European Union
<b>'Order Form'</b>	An order set out in the Call-Off Contract for Digital Outcome and Specialist Services placed by a Buyer with the Supplier
<b>'Other Contracting Bodies'</b>	All Contracting Bodies, or Buyers, except CCS
<b>'Party'</b>	<ul style="list-style-type: none"> <li>for the purposes of the Framework Agreement; CCS or the Supplier</li> <li>for the purposes of the Call-Off Contract; the Supplier or the Buyer,</li> </ul> <p>and 'Parties' will be interpreted accordingly</p>
<b>'Personal Data'</b>	As described in the Data Protection Act 1998 ( <a href="http://www.legislation.gov.uk/ukpga/1998/29/contents">http://www.legislation.gov.uk/ukpga/1998/29/contents</a> )
<b>'Prohibited Act'</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>induce that person to perform improperly a relevant function or activity</li> <li>reward that person for improper performance of a relevant function or activity</li> <li>commit any offence: <ul style="list-style-type: none"> <li>under the Bribery Act 2010</li> <li>under legislation creating offences concerning Fraud</li> <li>at common Law concerning Fraud</li> <li>committing or attempting or conspiring to commit Fraud</li> </ul> </li> </ul>
<b>'Project-Specific IPRs'</b>	<ul style="list-style-type: none"> <li>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 this Call-Off Contract and updates and amendments of these items including (but not limited to) database schema; and/or</li> <li>Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under this Call-Off Contract; but not including the Supplier Background IPRs</li> </ul>

<b>'Property'</b>	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
<b>'Regulations'</b>	The Public Contracts Regulations 2015 (at <a href="http://www.legislation.gov.uk/ukxi/2015/102/content/s/made">http://www.legislation.gov.uk/ukxi/2015/102/content/s/made</a> ) and the Public Contracts (Scotland) Regulations 2012 (at <a href="http://www.legislation.gov.uk/ssi/2012/88/made">http://www.legislation.gov.uk/ssi/2012/88/made</a> )
<b>'Regulatory Bodies'</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in the Framework Agreement or this Call Off Contract
<b>'Reporting Date'</b>	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
<b>'Request for Information'</b>	A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations
<b>'Self Audit Certificate'</b>	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.
<b>'Services'</b>	Digital outcomes, digital specialists, user research studios or user research participants to be provided by the Supplier under a Call-Off Contract
<b>'Specific Change in Law'</b>	A change in the Law that relates specifically to the business of CCS and which would not affect a Comparable Supply
<b>'Statement of Requirements'</b>	A statement issued by CCS or any Buyer detailing its Services requirements issued in the Call-Off Contract
<b>'Statement of Work' (SOW)</b>	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 a Call-Off Contract
<b>'SubSupplier'</b>	Each of the Supplier's SubSuppliers 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 this Call-Off Contract
<b>'Supplier'</b>	A Supplier of Digital Outcomes and Specialists services who can bid for Call-Off Contracts as outlined in the Contract Notice within the Official Journal of the European Union (OJEU Notice)
<b>'Supplier Background IPRs'</b>	Background IPRs of the Supplier
<b>'Supplier Software'</b>	Software which is proprietary to the Supplier and which is or will be used by the Supplier for the purposes of providing the Services
<b>'Supplier Staff'</b>	All persons employed by the Supplier including the

	Supplier's agents and consultants used in the performance of its obligations under this Framework Agreement or any Call-Off Contracts
<b>'Working Day'</b>	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

**PART D – Charges**

[REDACTED]



## **PART E – Baseline Personnel Security Standard**



HMG\_Baseline\_Perso  
nnel\_Security\_Standards

## **PART F – Offshoring Policy**



DWP Offshoring  
Policy.pdf

**PART G – DWP Travel, Accommodation and Expense Policy**  
[REDACTED]

## **PART H – Standby, Callout and Planned Out of Hours Services**

[REDACTED]

**PART I – COMMERCIAL ENGAGEMENT SCENARIOS**

[REDACTED]

**PART J – TCS CMG SOFTWARE LICENSES AND INFRASTRUCTURE REQUIREMENTS**  
[REDACTED]