



# Framework Schedule 6 (Order Form Template and Call-Off Schedules)

## Order Form

CALL-OFF REFERENCE: C401092 Desktop Container Environment (DCE)

THE BUYER: NHS Business Services Authority

BUYER ADDRESS Stella House,  
Newburn Riverside,  
Newcastle Upon Tyne  
NE15 8NY

THE SUPPLIER: XMA Limited

SUPPLIER ADDRESS: WILFORD INDUSTRIAL ESTATE  
RUDDINGTON LANE WILFORD  
NOTTINGHAM NG11 7EP

REGISTRATION NUMBER: 2051703

DUNS NUMBER: 29-848-4148

SID4GOV ID: Not Applicable

### APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated 23 December 2025.

It's issued under the Framework Contract with the reference number RM6098 for the provision of Technology Products & Associated Service 2.

CALL-OFF LOT(S):

Lot 3 Software

CALL-OFF INCORPORATED TERMS





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



1. This Order Form including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6098
3. Framework Special Terms
4. The following Schedules in equal order of precedence:
  - Joint Schedules for RM6098
    - **Joint Schedule 2 (Variation Form)**
    - **Joint Schedule 3 (Insurance Requirements)**
    - **Joint Schedule 4 (Commercially Sensitive Information)**
    - **Joint Schedule 6 (Key Subcontractors)**
    - *Joint Schedule 7 (Financial Difficulties) – Not used*
    - **Joint Schedule 8 (Guarantee) - Not Used**
    - *Joint Schedule 9 (Minimum Standards of Reliability)- Not used*
    - **Joint Schedule 10 (Rectification Plan)**
    - **Joint Schedule 11 (Processing Data)**
    - *Joint Schedule 12 (Supply Chain Visibility) - Not used*
  - Call-Off Schedules for RM6098
    - *Call-Off Schedule 1 (Transparency Reports)- Not used*
    - *Call-Off Schedule 2 (Staff Transfer) - Not used*
    - *Call-Off Schedule 3 (Continuous Improvement)- Not used*
    - **Call-Off Schedule 5 (Pricing Details)**
    - *Call-Off Schedule 6 (ICT Services)- Not used*
    - *Call-Off Schedule 7 (Key Supplier Staff)- Not used*
    - *Call-Off Schedule 8 (Business Continuity and Disaster Recovery) – Not used*
    - **Call-Off Schedule 9 (Security)**
    - *Call-Off Schedule 10 (Exit Management)- Not used*
    - *Call-Off Schedule 11 (Installation Works)- Not used*
    - *Call-Off Schedule 12 (Clustering)- Not used*
    - *Call-Off Schedule 13 (Implementation Plan and Testing)- Not used*
    - *Call-Off Schedule 14 (Service Levels) – Not used*
    - *Call-Off Schedule 15 (Call-Off Contract Management)- Not used*
    - *Call-Off Schedule 16 (Benchmarking)- Not used*
    - *Call-Off Schedule 17 (MOD Terms)- Not used*
    - *Call-Off Schedule 18 (Background Checks)- Not used*
    - *Call-Off Schedule 19 (Scottish Law)- Not used*
    - **Call-Off Schedule 20 (Call-Off Specification)**
    - *Call-off Schedule 21 (Northern Ireland Law)- Not used*
    - *Call-off Schedule 22 (Lease Terms)- Not used*
    - *Call-Off Schedule 23 (HMRC Terms)- Not used*



- 5. CCS Core Terms (version 3.0.11) as amended by the Framework Award Form
- 6. Joint Schedule 5 (Corporate Social Responsibility) RM6098
- 7. Call-Off Schedule 4 (Call-Off Tender) including Appendix One – Docker Subscription Service Agreement

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

CALL-OFF SPECIAL TERMS

None

CALL-OFF START DATE: 23 December 2025

CALL-OFF EXPIRY DATE: 22 December 2027

CALL-OFF INITIAL PERIOD: 24 Months

CALL-OFF DELIVERABLES

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

LOCATION FOR DELIVERY

NHSBSA, Stella House, Goldcrest Way, Newcastle Upon Tyne NE15 8NY

DATES FOR DELIVERY

Delivery date details- Licenses to be available on and from 23 December 2025

TESTING OF DELIVERABLES

None

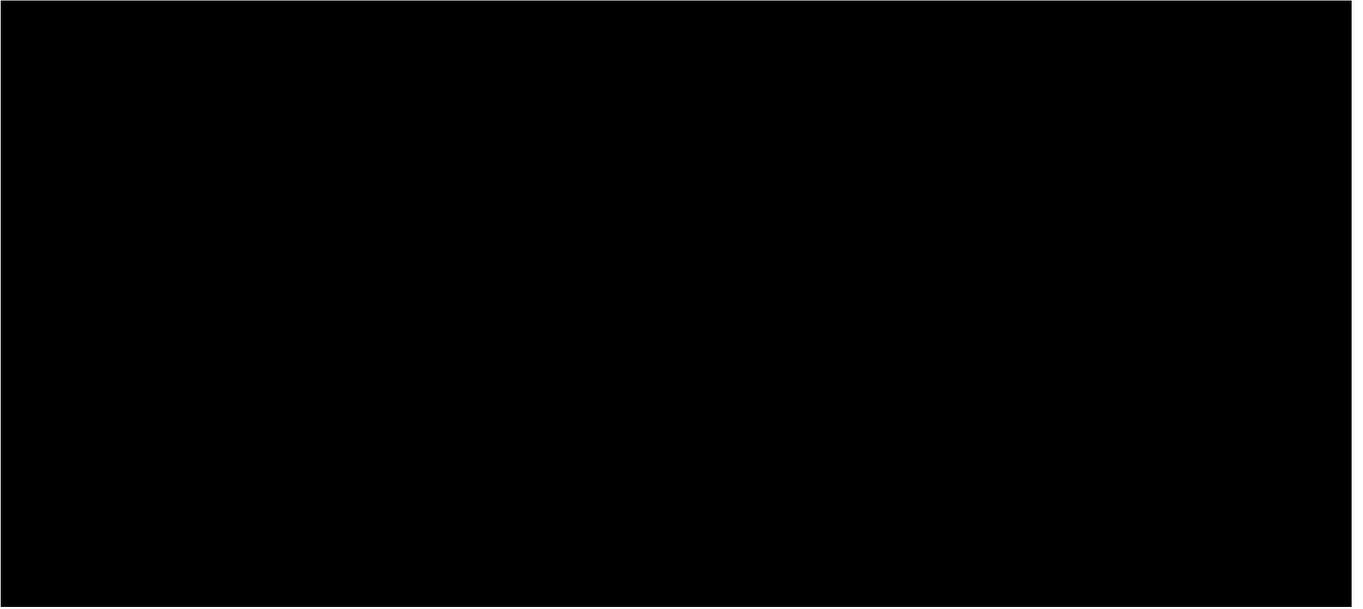
WARRANTY PERIOD

The warranty period for the purposes of Clause 3.1.2 of the Core Terms shall be 90 days

MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is [REDACTED] Estimated Charges in the first 12 months of the Contract.



See details in Call-Off Schedule 5 (Pricing Details) for further details.



All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, and 5 in Framework Schedule 3 (Framework Prices)

REIMBURSABLE EXPENSES

Recoverable as stated in the Framework Contract

PAYMENT METHOD

Payment terms are 30 days from receipt of a valid, undisputed invoice.

Payment to be made via BACS

All software orders placed and accepted by the OEM shall become non-cancellable and non refundable on receipt by the buyer.

BUYER'S INVOICE ADDRESS:

The NHS Business Services Authority

Accounts Payable

Email: [REDACTED]

Address: Stella House, Goldcrest Way, Newcastle Upon Tyne NE15 8NY

BUYER'S AUTHORISED REPRESENTATIVE

[REDACTED]

Stella House, Goldcrest Way, Newcastle Upon Tyne NE15 8NY

BUYER'S ENVIRONMENTAL POLICY

Detailed in Appendix A of this Order Form

BUYER'S SECURITY POLICY

Detailed in Appendix B of this Order Form

SUPPLIER'S AUTHORISED REPRESENTATIVE

[REDACTED]

WILFORD INDUSTRIAL ESTATE RUDDINGTON LANE WILFORD NOTTINGHAM NG11 7EP

SUPPLIER'S CONTRACT MANAGER

[REDACTED]

WILFORD INDUSTRIAL ESTATE RUDDINGTON LANE WILFORD NOTTINGHAM NG11 7EP

PROGRESS REPORT FREQUENCY

C401092 – Desktop Container  
Environment (DCE)  
RM6098 Order Form (Lot 3  
Software)



Submit quarterly on the first business day of each quarter.



**PROGRESS MEETING FREQUENCY**

Held quarterly on the first business day of each quarter to cover licence volumes as a minimum

**KEY STAFF**

Not applicable

**KEY SUBCONTRACTOR(S)**

Not applicable

**COMMERCIALLY SENSITIVE INFORMATION**

All supplier information containing commercially sensitive or confidential information. This includes all Supplier processes and Supplier pricing that would be considered exempt under Section 43 of FOIA 2000 as likely to prejudice the commercial interests of the Supplier. This also includes sensitive personnel information where the Data Subjects have not given their express or implied permission for the information provided in the tendering or award process to be shared in any other manner than for the delivery of the Goods and/or services to the Buyer.

**SERVICE CREDITS**

Not applicable

**ADDITIONAL INSURANCES**

Not applicable

**GUARANTEE**

Not applicable

**SOCIAL VALUE COMMITMENT**

The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Tender)]

Detailed in Appendix C





## Appendix A – BUYERS ENVIRONMENTAL POLICY

## Environment and Sustainability policy

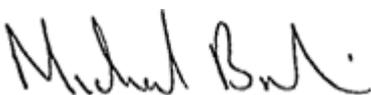
The NHSBSA is a Special Health Authority and an Arm's Length Body (ALB) of the Department of Health and Social Care (DHSC). We recognise the intrinsic link between the health of our environment, the health of our population, and the continued challenges posed by climate change now and in the future. We are committed to protecting the environment and integrating environmental sustainability throughout our organisation, services and strategic thinking, to manage our environmental impacts and mitigate our climate-related risks. We strive to continuously improve our environmental performance, as detailed in our Environment Strategy, to support us in meeting our policy outcomes.

### **We are committed to:**

- ✓ Reducing our greenhouse gas emissions as we work towards becoming a Net Zero organisation by 2030 for emissions we control and 2040 for emissions we influence
- ✓ Reducing waste at source and maximising resource efficiency as we transition towards a more circular economy
- ✓ Identifying and adapting to climate related risk and opportunities
- ✓ Having an environmentally responsible and transparent supply chain in place for NHSBSA
- ✓ Ensuring our use of technology and digital services are responsible and sustainable.
- ✓ Protecting the environment and preventing pollution caused by what we do
- ✓ Ensuring that we comply with environmental laws related to what we do, and meeting the requirements of other policies, strategies etc. we support such as those created by Government, Department of Health and NHS
- ✓ Continually improve our environmental management system to enhance our performance by setting and reviewing objectives and targets relevant to the NHSBSA each year.

### **We will achieve this by:**

- ✓ Operating an NHSBSA-wide environmental management system, which instructs staff and others on how to carry out key activities.
- ✓ Convening a quarterly board chaired by our Chief Executive with attendance from senior management stakeholders responsible for developing and implementing our environmental strategy and plan aimed at addressing our key material impacts and risks.
- ✓ Providing updates to our Board on environmental performance.
- ✓ Training and coaching staff (and others where appropriate) to ensure they understand how to play their part
- ✓ Communicating with staff (and others where appropriate) about environmental issues
- ✓ Actively engaging with relevant forums and groups to learn from others and share our knowledge and experience



Michael Brodie, Chief Executive NHSBSA



## Appendix B – BUYER'S SECURITY POLICY



## Information Security Policy

### Issue sheet

Document reference	ISMSPOL 001
Document location	ISMS>Document control>Document review 2023
Title	NHSBSA Information Security Policy
Author	Information Security & Business Continuity Manager
Owner	NHSBSA CEO and NHSBSA SIRO
Issued to	All NHSBSA staff
Reason issued	For information/action
Last reviewed	March 2023
Review Cycle	Two years
Date of Wellbeing and Inclusion Assessment	No Impact
Date of Fraud Review	No Impact

### Revision details

Version	Date	Amended by	Approved by	Details of amendments
V1.0	February 2019	Lead Information Security Risk Manager	BISG	Info sec policy statement signed and ISMSPOL 001 communicated to staff
V2.0	February 2020	Information Security Risk and BC Manager	BISG	Approved at BISG 20/02/2020 – communicated to all staff.
V3.0	January 2021	Information Security Risk and BC Manager	BISG	Approved at BISG
V4.0	March 2023	Information Security & Business Continuity Manager	BISG	Full review to reflect revised structure.

## Information security policy statement

The NHSBSA is committed to ensuring that we manage our information, and the information of our clients and stakeholders that we manage on their behalf, securely. This means that we will implement, and monitor the effectiveness of, controls designed to preserve its confidentiality, integrity, and availability in line with our business and legal and regulatory requirements.

Our information security objectives are aligned to our business objectives and are delivered through our information security management system (ISMS).

Our ISMS is certified to the *ISO27001:2013 Information security management system* standard to ensure that it is independently and regularly assessed for effectiveness and continual improvement.

We have established an information security governance framework and allocated specific roles, responsibilities, and resources to ensure that our ISMS is

- implemented effectively,
- responsive to changes in legal and regulatory requirements,
- responsive to changes to the threat landscape

In support of our specific roles and responsibilities we have an ongoing information security training and awareness programme to ensure that all NHSBSA staff, contractors, and suppliers understand their responsibilities for handling information securely.

Michael Brodie, Chief Executive NHSBSA



Mark Dibble, SIRO NHSBSA



## 1. Purpose

- 1.1. This policy is our 'Statement of Management Intent' and is supported by topic-specific policies, each of which will be delivered through appropriate information security standards, processes, procedures and guidelines.
- 1.2. This policy is intended to be read and understood by all NHSBSA staff and stakeholders responsible for managing, maintaining, delivering and assessing the effectiveness of our information security management programme.

## 2. Governance, Roles, and Responsibilities

- 2.1 There is an established information security management governance structure in place which is shown in Annex 1.
- 2.2 Key roles and responsibilities are given below.

### **Accounting Officer**

Our Accounting Officer is the Chief Executive who has overall organisational accountability for effective information security management across the NHSBSA.

### **Senior Information Risk Owner (SIRO)**

Our SIRO is responsible for taking ownership of our information risk policy, acting as an advocate for information risk to the Board, and providing advice to the Accounting Officer on the content of governance statements regarding information risk.

### **Caldicott Guardian**

Our Caldicott Guardian is responsible for ensuring the confidential information of our service users is used ethically, legally and appropriately.

### **Data Protection Officer**

Our Data Protection Officer is responsible for informing and advising NHSBSA employees and stakeholders of their data protection obligations and collaborating with them on managing the relevant privacy risks for customers and staff.

### **Information Asset Owner (IAO)**

Information Asset Owners are Directors of NHSBSA responsible for

- understanding and addressing risks to the information asset they 'own'

- providing assurance to the SIRO on the security and use of their assets, and the effective management of information risk
- maintaining the confidentiality of their information assets, ensuring that access to assets is controlled and that the information is securely kept
- ensuring personal data is identified, securely handled and can be used in ways that it is needed
- ensuring information is appropriately protected and proper safeguards are applied when it is shared
- ensuring information is managed appropriately during and following change
- maintaining an understanding of 'owned' assets and how they are used
- knowing what information is held and who has access to it for what purpose
- leading and fostering a culture that values, protects and uses information for the public good

**Information Asset Administrator (IAA)**

Information Asset Administrators are Heads of Service of NHSBSA responsible for

- providing day-to-day support to the IAO in managing information risks in their area
- ensuring that information security and governance policies and procedures are followed
- ensuring their information asset registers are accurate and up to date
- approving service-based information security risk assessments and risk treatment plans
- ensuring compliance with data sharing agreements within their service
- ensuring service-based information handling procedures are fit for purpose and properly applied
- recognising new information handling requirements and consulting with their IAO over appropriate procedures
- ensuring appropriate access to their information is monitored and maintained

**Head of Security & Information Governance**

Our Head of Security & Information Governance is responsible for

- monitoring the effectiveness of our information security management programme
- providing expert advice to the business on all information security management matters
- ensuring that information security risks are assessed in a timely manner and treated in accordance with our approved risk appetite

**Information Security & Business Continuity Manager**

Our Information Security & Business Continuity Manager is responsible for managing the implementation, effective delivery and continual improvement of our

- information security management system
- information security assurance programme
- information security compliance framework
- business continuity management programme

**Head of Cyber Security and Infrastructure Services**

Our Head of Cyber Security and Infrastructure Services is responsible for

- providing expert advice to the business on all matters concerning technical security
- ensuring the operational effectiveness of technical security controls and processes
- being accountable for technical information security regulatory compliance across the NHSBSA

**Cyber Security Operations Manager**

Our Cyber Security Operations Manager is responsible for

- providing advice and guidance around cyber security threats and vulnerabilities
- providing cyber security architecture and engineering resource to facilitate safe design and implementation of products and technical security controls
- ensuring that all technical security risks are appropriately managed
- monitoring technical security systems and controls and effectively managing alerts
- timely reporting and investigation of cyber security incidents

**Staff and contractors**

NHSBSA staff and contractors are responsible for

- complying with NHSBSA information security policies, standards, processes and procedures and the appropriate protection of information assets
- being accountable for their actions in relation to the security of information that they manage, process or control
- completing annual training in a timely manner to ensure that information security roles and responsibilities are understood
- safeguarding hardware, software and information in their care

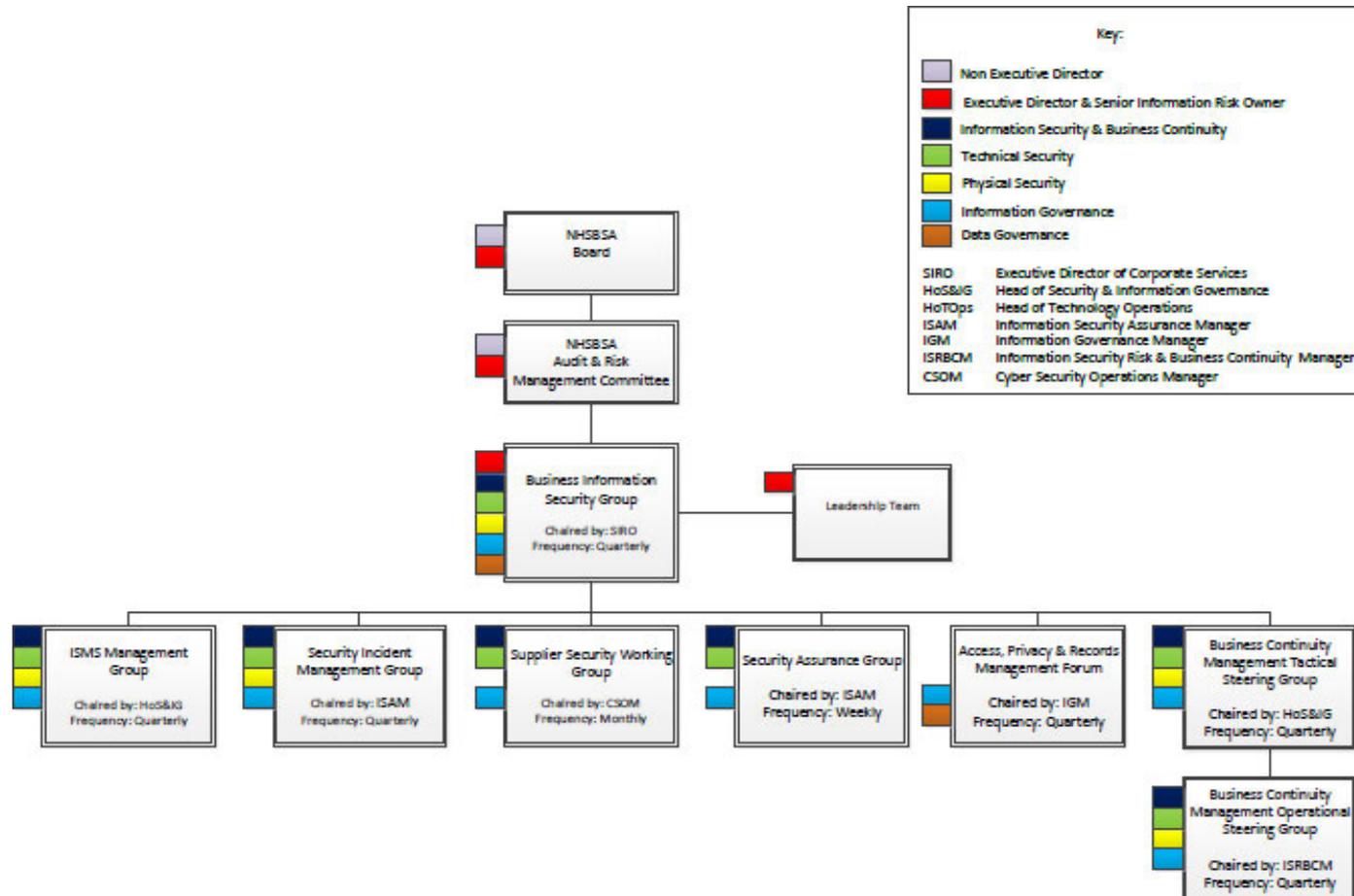
### **3. Compliance**

- 3.1 In applying this policy, the NHSBSA will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.
- 3.2 Compliance with this policy **is** subject to internal and external audit to ensure its effectiveness.



# Business Services Authority

## Annex 1 – ISMS Governance Structure





## Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In each Contract, unless the context otherwise requires:
  - 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
  - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
  - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
  - 1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;



1.3.12 where the Buyer is a Central Government Body it shall be treated as contracting with the Crown as a whole;

1.3.13 any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred; and

1.3.14 unless otherwise provided, references to "**Buyer**" shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to "**Call-Off Contract**" and "**Contract**" shall be construed as including Exempt Call-off Contracts.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>Additional insurances"</b>	insurance requirements relating to a Call-Off Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
<b>Admin Fee"</b>	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> ;
<b>Affected Party"</b>	the Party seeking to claim relief in respect of a Force Majeure Event;
<b>Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>Annex"</b>	extra information which supports a Schedule;
<b>Approval"</b>	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;
<b>Audit"</b>	the Relevant Authority's right to:



	<ul style="list-style-type: none"> <li>a) verify the accuracy of the Charges and any other amounts payable by a Buyer under a Call-Off Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>c) verify the Open Book Data;</li> <li>d) verify the Supplier's and each Subcontractor's compliance with the Contract and applicable Law;</li> <li>e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>g) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li> <li>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract;</li> <li>i) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;</li> <li>j) enable the National Audit Office 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 Relevant Authority has used its resources; or</li> <li>k) verify the accuracy and completeness of any Management Information delivered or required by the Framework Contract;</li> </ul>
<p><b>Auditor"</b></p>	<ul style="list-style-type: none"> <li>a) the Relevant Authority's internal and external auditors;</li> <li>b) the Relevant Authority's statutory or regulatory auditors;</li> <li>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li> <li>d) HM Treasury or the Cabinet Office;</li> <li>e) any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and</li> <li>f) successors or assigns of any of the above;</li> </ul>



<b>Authority"</b>	CCS and each Buyer;
<b>Authority Cause"</b>	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
<b>BACS"</b>	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
<b>Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>Buyer"</b>	the relevant public sector purchaser identified as such in the Order Form;
<b>Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>Buyer Authorised representative"</b>	the representative appointed by the Buyer from time to time in relation to the Call-Off Contract initially identified in the Order Form;
<b>Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>Call-Off Contract"</b>	the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form;
<b>Call-Off Contract period"</b>	the Contract Period in respect of the Call-Off Contract;
<b>Call-Off Expiry date"</b>	the scheduled date of the end of a Call-Off Contract as stated in the Order Form;
<b>Call-Off incorporated terms"</b>	the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form;
<b>Call-Off Initial period"</b>	the Initial Period of a Call-Off Contract specified in the Order Form;
<b>Call-Off Optional extension Period"</b>	such period or periods beyond which the Call-Off Initial Period may be extended as specified in the Order Form;
<b>Call-Off procedure"</b>	the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Award Procedure);
<b>Call-Off Special terms"</b>	any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract;
<b>Call-Off Start date"</b>	the date of start of a Call-Off Contract as stated in the Order Form;



<b>Call-Off Tender"</b>	the tender submitted by the Supplier in response to the Buyer's Statement of Requirements following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off Tender);
<b>CCS"</b>	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
<b>CCS Authorised representative"</b>	the representative appointed by CCS from time to time in relation to the Framework Contract initially identified in the Framework Award Form;
<b>Central government body"</b>	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> <li>a) Government Department;</li> <li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c) Non-Ministerial Department; or</li> <li>d) Executive Agency;</li> </ul>
<b>Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>Change of control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Call-Off Contract less any Deductions;
<b>Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>Commercially sensitive information"</b>	the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>Comparable supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>Compliance officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>Confidential information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as



	<b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;
<b>Conflict of interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS;
<b>Contract"</b>	either the Framework Contract or the Call-Off Contract, as the context requires;
<b>Contract Period"</b>	the term of either a Framework Contract or Call-Off Contract on and from the earlier of the: a) applicable Start Date; or b) the Effective Date up to and including the applicable End Date;
<b>Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
<b>Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>Controller"</b>	has the meaning given to it in the UK GDPR;
<b>Core Terms"</b>	CCS' terms and conditions for common goods and services which govern how Suppliers must interact with CCS and Buyers under Framework Contracts and Call-Off Contracts;
<b>Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables: a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Buyer;



	<p>b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>d) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>e) Overhead;</p> <p>f) financing or similar costs;</p> <p>g) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>h) taxation;</p> <p>i) fines and penalties;</p> <p>j) amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and</p> <p>k) non-cash items (including depreciation, amortisation, impairments and movements in provisions).</p>
<b>CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Cyber essentials equivalent"</b>	<p>ISO27001 certification where:</p> <p>a) the Cyber Essentials requirements, at either basic or Plus levels as appropriate, have been included in the scope, and verified as such; and</p> <p>b) the certification body carrying out this verification is approved to issue a Cyber Essentials certificate by one of the accreditation bodies</p> <p>This would be regarded as holding an equivalent standard to Cyber Essentials.</p>
<b>Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>Data Protection Legislation"</b>	(i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy;
<b>Data Protection Liability Cap"</b>	the amount specified in the Framework Award Form;



<b>Data Protection Officer"</b>	has the meaning given to it in the UK GDPR;
<b>Data Subject"</b>	has the meaning given to it in the UK GDPR;
<b>Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under a Call-Off Contract;
<b>Default"</b>	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
<b>Default Management Charge"</b>	has the meaning given to it in Paragraph 8.1.1 of Framework Schedule 5 (Management Charges and Information);
<b>Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;
<b>Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Buyer by either (a) confirmation in writing to the Supplier; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
<b>Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
<b>Documentation"</b>	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:



	<p>l) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>m) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>n) has been or shall be generated for the purpose of providing the Deliverables;</p>
<b>DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of Tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>DPA 2018"</b>	the Data Protection Act 2018;
<b>Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;
<b>Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>EIR"</b>	the Environmental Information Regulations 2004;
<b>Electronic Invoice"</b>	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
<b>Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>End Date"</b>	<p>the earlier of:</p> <p>a) the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or</p> <p>b) if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
<b>Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Order Form;



<p><b>"Estimated Yearly Charges"</b></p>	<p>means for the purposes of calculating each Party's annual liability under clause 11.2 :</p> <ul style="list-style-type: none"> <li>i) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>ii) in the any subsequent Contract Years, the Charges paid or payable in the previous Call-off Contract Year; or</li> <li>iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period;</li> </ul>
<p><b>"Exempt Buyer"</b></p>	<p>a public sector purchaser that is:</p> <ul style="list-style-type: none"> <li>a) eligible to use the Framework Contract; and</li> <li>b) is entering into an Exempt Call-off Contract that is not subject to (as applicable) any of: <ul style="list-style-type: none"> <li>i) the Regulations;</li> <li>ii) the Concession Contracts Regulations 2016 (SI 2016/273);</li> <li>iii) the Utilities Contracts Regulations 2016 (SI 2016/274);</li> <li>iv) the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);</li> <li>v) the Remedies Directive (2007/66/EC);</li> <li>vi) Directive 2014/23/EU of the European Parliament and Council;</li> <li>vii) Directive 2014/24/EU of the European Parliament and Council;</li> <li>viii) Directive 2014/25/EU of the European Parliament and Council; or</li> <li>ix) Directive 2009/81/EC of the European Parliament and Council;</li> </ul> </li> </ul>
<p><b>"Exempt Call-off Contract"</b></p>	<p>the contract between the Exempt Buyer and the Supplier for Deliverables which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the Framework Contract;</p>
<p><b>"Exempt Procurement Amendments"</b></p>	<p>any amendments, refinements or additions to any of the terms of the Framework Contract made through the Exempt Call-off Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;</p>



<b>Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>Exit Day"</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>Expiry Date"</b>	the Framework Expiry Date or the Call-Off Expiry Date (as the context dictates);
<b>Extension Period"</b>	the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates;
<b>"Financial Reports"</b>	<p>a report by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> <li>a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</li> <li>b) provides a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</li> <li>c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of the Contract; and</li> </ul> <p>is certified by the Supplier's Chief Financial Officer or Director of Finance;</p>
<b>FOIA"</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>Force Majeure event"</b>	<p>any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including:</p> <ul style="list-style-type: none"> <li>a) riots, civil commotion, war or armed conflict;</li> <li>b) acts of terrorism;</li> <li>c) acts of government, local government or regulatory bodies;</li> <li>d) fire, flood, storm or earthquake or other natural disaster,</li> </ul> <p>but excluding any industrial dispute relating to the Supplier, the Supplier Staff or any other failure in the Supplier or the Subcontractor's supply chain;</p>
<b>Force Majeure notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;



<b>Framework Award Form</b>	the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Supplier and CCS;
<b>Framework Contract</b>	the framework agreement established between CCS and the Supplier in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the notice published on the Find a Tender Service;
<b>Framework Contract Period</b>	the period from the Framework Start Date until the End Date of the Framework Contract;
<b>Framework Expiry Date</b>	the scheduled date of the end of the Framework Contract as stated in the Framework Award Form;
<b>Framework Incorporated Terms</b>	the contractual terms applicable to the Framework Contract specified in the Framework Award Form;
<b>Framework Optional Extension Period</b>	such period or periods beyond which the Framework Contract Period may be extended as specified in the Framework Award Form;
<b>Framework Price(s)</b>	the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices);
<b>Framework Special Terms</b>	any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract;
<b>Framework Start Date</b>	the date of start of the Framework Contract as stated in the Framework Award Form;
<b>Framework Tender Response</b>	the tender submitted by the Supplier to CCS and annexed to or referred to in Framework Schedule 2 (Framework Tender);
<b>Further Competition Procedure</b>	the further competition procedure described in Framework Schedule 7 (Call-Off Award Procedure);
<b>UK GDPR</b>	the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>General Anti-Abuse Rule</b>	a) the legislation in Part 5 of the Finance Act 2013 and; and b) any future legislation introduced into parliament to counteract Tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>General Change in Law</b>	a Change in Law where the change is of a general legislative nature (including Tax or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>“Gold Contract”</b>	a Call-Off Contract categorised as a Gold contract using the Cabinet Office Contract Tiering Tool;
<b>Goods</b>	goods made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form ;
<b>Good Industry Practice</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence



	and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which: <ul style="list-style-type: none"> <li>i) are supplied to the Supplier by or on behalf of the Authority; or</li> <li>ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract;</li> </ul>
<b>Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
<b>Halifax Abuse principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HM Government"</b>	Her Majesty's Government;
<b>HMRC"</b>	Her Majesty's Revenue and Customs;
<b>ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>Impact Assessment"</b>	an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including: <ul style="list-style-type: none"> <li>a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b) details of the cost of implementing the proposed Variation;</li> <li>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>e) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;</li> </ul>



<b>Implementation Plan</b>	the plan for provision of the Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>Indemnifier</b>	a Party from whom an indemnity is sought under this Contract;
<b>Independent Controller</b>	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;
<b>Indexation</b>	the adjustment of an amount or sum in accordance with Framework Schedule 3 (Framework Prices) and the relevant Order Form;
<b>Information</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>Information Commissioner</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>Initial Period</b>	the initial term of a Contract specified in the Framework Award Form or the Order Form, as the context requires;
<b>Insolvency Event</b>	with respect to any person, means: (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within 14 days;



	<p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
<b>Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Call-Off Contract Period to install the Goods in accordance with the Call-Off Contract;
<b>Intellectual Property rights" or "IPR"</b>	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<b>Invoicing Address"</b>	the address to which the Supplier shall invoice the Buyer as specified in the Order Form;
<b>IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;



<b>IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same income tax and National Insurance contributions as an employee which can be found online at <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"ISO"</b>	International Organization for Standardization;
<b>Joint Controller greement"</b>	the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 ( <i>Processing Data</i> );
<b>Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>Key Staff"</b>	the individuals (if any) identified as such in the Order Form;
<b>Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>Key Subcontractor"</b>	any Subcontractor: a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Call-Of-Contract, and the Supplier shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in the Order Form;
<b>Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
<b>Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;
<b>Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees) disbursements, costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and " <b>Loss</b> " shall be interpreted accordingly;
<b>Lots"</b>	the number of lots specified in Framework Schedule 1 (Specification), if applicable;



<b>Management charge"</b>	the sum specified in the Framework Award Form payable by the Supplier to CCS in accordance with Framework Schedule 5 (Management Charges and Information);
<b>Management information" or "MI"</b>	the management information specified in Framework Schedule 5 (Management Charges and Information);
<b>MI Default"</b>	means when two (2) MI Reports are not provided in any rolling six (6) month period
<b>MI Failure"</b>	means when an MI report: <ul style="list-style-type: none"> <li>a) contains any material errors or material omissions or a missing mandatory field; or</li> <li>b) is submitted using an incorrect MI reporting Template; or</li> <li>c) is not submitted by the reporting date (including where a declaration of no business should have been filed);</li> </ul>
<b>MI Report"</b>	means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information);
<b>MI Reporting template"</b>	means the form of report set out in the Annex to Framework Schedule 5 (Management Charges and Information) setting out the information the Supplier is required to supply to the Authority;
<b>Milestone"</b>	an event or task described in the Implementation Plan;
<b>Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>Month"</b>	a calendar month and " <b>Monthly</b> " shall be interpreted accordingly;
<b>National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>New IPR"</b>	<ul style="list-style-type: none"> <li>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</li> <li>b) IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</li> </ul> <p>but shall not include the Supplier's Existing IPR;</p>
<b>Occasion of Tax on-Compliance"</b>	<p>where:</p> <ul style="list-style-type: none"> <li>a) any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> <li>i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any Tax rules or legislation in any jurisdiction</li> </ul> </li> </ul>



	<p>that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</p> <p>b) any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for Tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
<p><b>Open Book Data "</b></p>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Call-Off Contract, including details and all assumptions relating to:</p> <p>a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</p> <p>b) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p> <p>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</p> <p>ii) staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade;</p> <p>iii) a list of Costs underpinning those rates for each grade, being the agreed rate less the Supplier Profit Margin; and</p> <p>iv) Reimbursable Expenses, if allowed under the Order Form;</p> <p>c) Overheads;</p> <p>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>e) the Supplier Profit achieved over the Framework Contract Period and on an annual basis;</p> <p>f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>h) the actual Costs profile for each Service Period;</p>



<b>Order"</b>	means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract;
<b>Order Form"</b>	a completed Order Form Template (or equivalent information issued by the Buyer) used to create a Call-Off Contract;
<b>Order Form template"</b>	the template in Framework Schedule 6 (Order Form Template and Call-Off Schedules);
<b>Other Contracting authority"</b>	any actual or potential Buyer under the Framework Contract;
<b>Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>Party"</b>	in the context of the Framework Contract, CCS or the Supplier, and in the in the context of a Call-Off Contract the Buyer or the Supplier. <b>"Parties"</b> shall mean both of them where the context permits;
<b>Performance indicators" or "PIs"</b>	the performance measurements and targets in respect of the Supplier's performance of the Framework Contract set out in Framework Schedule 4 (Framework Management);
<b>Personal Data"</b>	has the meaning given to it in the UK GDPR;
<b>Personal Data reach"</b>	has the meaning given to it in the UK GDPR;
<b>Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
<b>Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>Processing"</b>	has the meaning given to it in the UK GDPR;
<b>Processor"</b>	has the meaning given to it in the UK GDPR;
<b>Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>Progress Meeting frequency"</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
<b>Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;



<b>Progress Report frequency”</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
<b>Prohibited Acts”</b>	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</li> </ul> <p>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<b>Protective measures”</b>	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Framework Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract.
<b>“Rating Agency”</b>	as defined in the Framework Award Form or the Order Form, as the context requires;
<b>Recall”</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;
<b>Recipient Party”</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>Rectification Plan”</b>	the Supplier’s plan (or revised plan) to rectify it’s breach using the template in Joint Schedule 10 (Rectification Plan) which shall include:



	<p>a) full details of the Default that has occurred, including a root cause analysis;</p> <p>b) the actual or anticipated effect of the Default; and</p> <p>c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);</p>
<b>Rectification Plan process"</b>	the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process);
<b>Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>Reimbursable expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <p>a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</p> <p>b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p>
<b>Relevant Authority"</b>	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
<b>Relevant Authority's confidential information"</b>	<p>a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);</p> <p>b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and</p> <p>information derived from any of the above;</p>
<b>Relevant requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>Relevant Tax authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>Reminder Notice"</b>	a notice sent in accordance with Clause 10.5 given by the Supplier to the Buyer providing notification that payment has not been received on time;



<b>Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>Replacement subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>Replacement supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>Request For Information"</b>	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>Required insurances"</b>	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
<b>"RTI"</b>	Real Time Information;
<b>Satisfaction certificate"</b>	the certificate (materially in the form of the document contained in Part B of Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;
<b>Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Call-Off Schedule 9 (Security) (if applicable);
<b>Security Policy"</b>	the Buyer's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>Self Audit certificate"</b>	means the certificate in the form as set out in Framework Schedule 8 (Self Audit Certificate);
<b>Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Call Off Contract (which, where Call Off Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>Service Period"</b>	has the meaning given to it in the Order Form;



<b>Services"</b>	services made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form;
<b>Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>Service Transfer Date"</b>	the date of a Service Transfer;
<b>Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: a) the Deliverables are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;
<b>SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>Special Terms"</b>	any additional Clauses set out in the Framework Award Form or Order Form which shall form part of the respective Contract;
<b>Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>Specification"</b>	the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form;
<b>Standards"</b>	any: a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Schedule 1 (Specification); c) standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time;
<b>Start Date"</b>	in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form;



<b>Statement of requirements"</b>	a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Call-Off Procedure;
<b>Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than a Call-Off Contract or the Framework Contract, pursuant to which a third party: a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;
<b>Supplier"</b>	the person, firm or company identified in the Framework Award Form;
<b>Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Buyer Assets;
<b>Supplier Authorised representative"</b>	the representative appointed by the Supplier named in the Framework Award Form, or later defined in a Call-Off Contract;
<b>Supplier's confidential information"</b>	a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract; c) Information derived from any of (a) and (b) above;
<b>"Supplier's Contract Manager"</b>	the person identified in the Order Form appointed by the Supplier to oversee the operation of the Call-Off Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Call-Off Contract;
<b>Supplier Marketing contact"</b>	shall be the person identified in the Framework Award Form;



<b>Supplier Non-performance"</b>	<p>where the Supplier has failed to:</p> <ul style="list-style-type: none"> <li>a) Achieve a Milestone by its Milestone Date;</li> <li>b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>c) comply with an obligation under a Contract;</li> </ul>
<b>Supplier Profit"</b>	<p>in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) in respect of a Call-Off Contract for the relevant period;</p>
<b>Supplier Profit Margin"</b>	<p>in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;</p>
<b>Supplier Staff"</b>	<p>all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;</p>
<b>Supporting Documentation"</b>	<p>sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Call-Off Contract detailed in the information are properly payable;</p>
<b>Tax"</b>	<ul style="list-style-type: none"> <li>a) all forms of taxation whether direct or indirect;</li> <li>b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;</li> <li>c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and</li> <li>d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,</li> </ul> <p>in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;</p>
<b>Termination Notice"</b>	<p>a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;</p>
<b>Test Issue"</b>	<p>any variance or non-conformity of the Deliverables from their requirements as set out in a Call-Off Contract;</p>
<b>Test Plan"</b>	<p>a plan:</p> <ul style="list-style-type: none"> <li>a) for the Testing of the Deliverables; and</li> <li>b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>



<b>Tests "</b>	any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off Contract and <b>"Tested"</b> and <b>"Testing"</b> shall be construed accordingly;
<b>Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>Transparency Information"</b>	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> <li>(i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and</li> <li>(ii) Commercially Sensitive Information;</li> </ul>
<b>Transparency Reports"</b>	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Call-Off Schedule 1 (Transparency Reports);
<b>"TUPE"</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive
<b>"United Kingdom"</b>	the country that consists of England, Scotland, Wales, and Northern Ireland
<b>Variation"</b>	any change to a Contract;
<b>Variation Form"</b>	the form set out in Joint Schedule 2 (Variation Form);
<b>Variation Procedure"</b>	the procedure set out in Clause 24 (Changing the contract);
<b>VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form;



<b>Work Day"</b>	Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and
<b>Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks.



## Joint Schedule 2 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details	
This variation is between:	<b>[delete]</b> as applicable: CCS / Buyer] (" <b>CCS</b> " " <b>the Buyer</b> ") And <b>[insert]</b> name of Supplier] (" <b>the Supplier</b> ")
Contract name:	<b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")
Contract reference number:	<b>[insert]</b> contract reference number]
Details of Proposed Variation	
Variation initiated by:	<b>[delete]</b> as applicable: CCS/Buyer/Supplier]
Variation number:	<b>[insert]</b> variation number]
Date variation is raised:	<b>[insert]</b> date]
Proposed variation	
Reason for the variation:	<b>[insert]</b> reason]
An Impact Assessment shall be provided within:	<b>[insert]</b> number] days
Impact of Variation	
Likely impact of the proposed variation:	<b>[Supplier to insert]</b> assessment of impact]
Outcome of Variation	
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[CCS/Buyer to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>
Financial variation:	Original Contract Value: £ <b>[insert]</b> amount]
	Additional cost due to variation: £ <b>[insert]</b> amount]
	New Contract value: £ <b>[insert]</b> amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: CCS / Buyer]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.



Signed by an authorised signatory for and on behalf of the **[delete]** as applicable: CCS / Buyer]

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address



## Joint Schedule 3 (Insurance Requirements)

### 1. The insurance you need to have

1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("Additional Insurances") and any other insurances as may be required by applicable Law (together the "Insurances"). The Supplier shall ensure that each of the Insurances is effective no later than:

1.1.1 the Framework Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

1.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.

### 1.2 The Insurances shall be:

1.2.1 maintained in accordance with Good Industry Practice;

1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;

1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and

1.2.4 maintained for at least six (6) years after the End Date.

1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

2.1 Without limiting the other provisions of this Contract, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.



### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

### **4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.



- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.



## **ANNEX: REQUIRED INSURANCES**

- 1.** The Supplier shall hold the following standard insurance cover from the Framework Start Date in accordance with this Schedule:

1.1 Professional indemnity insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000) – all Lots.

1.2 Public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000) – all Lots.

1.3 Employers' liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000) – all Lots.

1.4 Product liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000) – all Lots.



# Joint Schedule 4 (Commercially Sensitive Information)

## 1. What is the Commercially Sensitive Information?

1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.

1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).

1.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
1			
2			
3			

I declare that I wish the following information to be designated as commercially sensitive:

- Supplier processes
- Supplier pricing
- Sensitive personnel information where the Data Subjects have not given their express or implied permission for the information

The reason(s) it is considered that this information should be exempt under FOIA and EIR is:

- Supplier processes and pricing would be considered exempt under Section 43 of FOIA 2000 as likely to prejudice the commercial interests of the Supplier. Sensitive personal information would be exempt where the data subjects had not given their express or implied permission.

The period of time for which it is considered this information should be exempt is:

- From tender submission and for the duration of contract.



## Joint Schedule 6 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form.
- 1.2 The Supplier is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form.
- 1.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Buyer and the Supplier shall, at the time of requesting such consent, provide CCS and the Buyer with the information detailed in Paragraph 1.4. The decision of CCS and the Buyer to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to section 18 of the Framework Award Form. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Order Form. CCS and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.3.3 the proposed Key Subcontractor employs unfit persons.
- 1.4 The Supplier shall provide CCS and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the CCS and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4 for CCS, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;
  - 1.4.5 for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call Off Contract Period; and
  - 1.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.



- 1.5 If requested by CCS and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
  - 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by CCS and/or the Buyer.
- 1.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for CCS and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Buyer respectively;
  - 1.6.3 a provision enabling CCS and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Buyer;
  - 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Framework Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
    - (c) the obligation not to embarrass CCS or the Buyer or otherwise bring CCS or the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on CCS and the Buyer under Clauses 10.4 (When CCS or the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
  - 1.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of CCS and the Buyer.



## Joint Schedule 10 (Rectification Plan)

Request for <b>[Revised]</b> Rectification Plan		
Details of the Default:	<b>[Guidance:</b> Explain the Default, with clear schedule and clause references as appropriate]	
Deadline for receiving the <b>[Revised]</b> Rectification Plan:	<b>[add]</b> date (minimum 10 days from request)]	
Signed by <b>[CCS/Buyer]</b> :		Date: <input type="text"/>
Supplier <b>[Revised]</b> Rectification Plan		
Cause of the Default	<b>[add]</b> cause]	
Anticipated impact assessment:	<b>[add]</b> impact]	
Actual effect of Default:	<b>[add]</b> effect]	
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>
	1.	<b>[date]</b>
	2.	<b>[date]</b>
	3.	<b>[date]</b>
	4.	<b>[date]</b>
	<b>[...]</b>	<b>[date]</b>
Timescale for complete Rectification of Default	<input checked="" type="checkbox"/> Working Days	
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>
	1.	<b>[date]</b>
	2.	<b>[date]</b>
	3.	<b>[date]</b>
	4.	<b>[date]</b>
	<b>[...]</b>	<b>[date]</b>



Signed by the Supplier:		Date:	
<b>Review of Rectification Plan [CCS/Buyer]</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by [CCS/Buyer]		Date:	



## Joint Schedule 11 (Processing Data)

### Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**“Processor Personnel”** all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

### Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller and may not otherwise be determined by the Processor.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged Processing and the purpose of the Processing;



- (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*) and shall not Process the Personal Data for any other purpose, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject. In the event of the Controller reasonably rejecting Protection Measures put in place by the Processor, the Processor must propose alternative Protective Measures to the satisfaction of the Controller. Failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures. Protective Measures must take account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that:
    - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*) of the Core Terms;
      - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
      - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and



- (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer, Process, or otherwise make available for Processing, Personal Data outside of the UK unless the prior written consent of the Controller has been obtained (such consent may be withheld or subject to such conditions as the Customer considers fit at the Customer's absolute discretion) and the following conditions are fulfilled:
- (i) the destination country has been recognised as adequate by the UK Government in accordance with Article 45 UK GDPR or section 74 of the DPA 2018;
  - (ii) Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 DPA 2018) as determined by the Controller;
  - (iii) the Data Subject has enforceable rights and effective legal remedies;
  - (iv) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - (v) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;
- if any of the mechanisms relied on under paragraph 6(d) in respect of any transfers of Personal Data by the Processor at any time ceases to be valid, the Processor shall, if possible, implement an alternative mechanism to ensure compliance with the Data Protection Legislation. If no alternative mechanism is available, the Controller and the Processor shall work together in good faith to determine the appropriate measures to be taken, taking into account any relevant guidance and accepted good industry practice. The Controller reserves the right to require the Processor to cease any affected transfers if no alternative mechanism to ensure compliance with Data Protection Legislation is reasonably available; and
- (e) at the written direction, and absolute discretion, of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 8 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to Processing Personal Data under or in connection with the Contract it:



- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Data Loss Event.
8. The Processor's obligation to notify under paragraph 7 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 7 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Data Loss Event; and/or
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
  - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or



- (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing that will be undertaken by the Subprocessor;
  - (b) obtain the written consent of the Controller (such consent may be withheld or subject to such conditions as the Controller considers fit at the Controller's absolute discretion);
  - (c) enter into a written legally binding agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor, prior to any Personal Data being transferred to or accessed by the Subprocessor; and
  - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. Any Processing by a Subprocessor or transfer of Personal Data to a Subprocessor permitted by the Controller shall not relieve the Processor from any of its liabilities, responsibilities and obligations to the Controller under this Joint Schedule 11, and the Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

#### **Where the Parties are Joint Controllers of Personal Data**

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 3 to this Joint Schedule 11.



## Independent Controllers of Personal Data

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 18 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
22. The Parties shall only provide Personal Data to each other:
  - (a) to the extent necessary to perform their respective obligations under the Contract;
  - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
  - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data



provided to it by the other Party pursuant to the Contract (“**Request Recipient**”):

- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
  - (b) implement any measures necessary to restore the security of any compromised Personal Data;
  - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an



**Business Services Authority**

Independent Controller of Personal Data in accordance with paragraphs 18 to 28 of this Joint Schedule 11.



**Annex 1 - Processing Personal Data (Lot 1-7 Authority & Supplier, Call-Off Contract)**

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

- 1.1 The contact details of the Relevant Authority’s Data Protection Officer are:  
[Redacted]
- 1.2 The contact details of the Supplier’s Data Protection Officer are: [Redacted]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Authority is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Clause 34.2 to 34.15 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> <li>• The Supplier shall process customer personal data in order to provide the software.</li> </ul>
Subject matter of the Processing	The Supplier shall process customer personal data in order to provide the software.
Duration of the Processing	From tender submission and for the duration of the contract.
Nature and purposes of the Processing	The Supplier will act as an Agent on behalf of the Authority in the procurement, maintenance, upgrade and deployment of all software on the Devices. The Supplier will take full responsibility in reporting to the Authority where the Authority is not compliant with all licencing arrangements. The Supplier will encourage the compliance, but overall responsibility for compliance will remain with the Authority.
Type of Personal Data being Processed	Name, email address.



<p>Categories of Data Subject</p>	<p>Staff.</p>
<p>International transfers and legal gateway</p>	<p>The Supplier will not transfer data outside of the UK or EEA.</p>
<p>Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>The Personal Data (and any copies of it) will be returned to the Buyer once the processing activity to which it relates has been completed and on termination of this Agreement unless the Parties agree in writing that can instead be securely destroyed in any particular case in accordance with an agreed document retention and destruction policy.</p>



### Annex 1 - Processing Personal Data (CCS & Supplier, Framework Contract)

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Relevant Authority is Controller and the Supplier is the Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 3 to paragraph 16 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ol style="list-style-type: none"> <li>1 Any Personal Data for effective communication between the Authority and the Supplier.</li> <li>2 Any Personal Data for maintaining full and accurate records of the Framework Contract.</li> </ol>
Subject matter of the Processing	The processing is needed in order to ensure that the Processor can effectively maintain and deliver its obligations under the Framework Contract.
Duration of the Processing	Up to 7 years after the expiry or termination of the Framework Contract unless longer retention is required by Law or the terms of any Call-Off Contract arising hereunder.
Nature and purposes of the Processing	<p>To facilitate the fulfilment of the Supplier's obligations arising under this Framework Contract including;</p> <ol style="list-style-type: none"> <li>1. Ensuring effective communication between the Supplier and CSS.</li> <li>2. Maintaining full and accurate records of every Call-Off Contract arising under the Framework Contract in accordance with Core Terms Clause 6 (Record Keeping and Reporting).</li> </ol>
Type of Personal Data being Processed	<p>Includes:</p> <ol style="list-style-type: none"> <li>1. Names, email addresses, telephone numbers and communications with, CSS staff concerned with management of the Framework Contract.</li> <li>2. Names, email addresses, telephone numbers and communications with, Buyer staff concerned with award and management of Call-Off Contracts awarded under the Framework Contract.</li> </ol>



	<ol style="list-style-type: none"> <li>3. Names, email addresses, telephone numbers, and communications with, Sub-contractor staff concerned with fulfilment of the Supplier's obligations arising from this Framework Contract.</li> <li>4. Names, email addresses, telephone numbers and communications with Supplier staff concerned with management of the Framework Contract.</li> </ol>
<p>Categories of Data Subject</p>	<p>Includes:</p> <ol style="list-style-type: none"> <li>1. CSS staff concerned with management of the Framework Contract.</li> <li>2. Buyer staff concerned with award and management of Call-Off Contracts awarded under the Framework Contract.</li> <li>3. Sub-contractor staff concerned with fulfilment of the Supplier's obligations arising from this Framework Contract.</li> <li>4. Supplier staff concerned with fulfilment of the Supplier's obligations arising under this Framework Contract.</li> </ol>
<p>International transfers and legal gateway</p>	<ol style="list-style-type: none"> <li>1. The Supplier shall provide CCS with a statement of the physical location where data will be stored, processed and managed.</li> <li>2. The Supplier will not transfer any Personal Data outside of the European Economic Area (EEA) without the prior written consent of the Authority.</li> </ol>
<p>Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>All relevant data to be deleted 7 years after the expiry or termination of this Framework Contract unless longer retention is required by Law or the terms of any Call-Off Contract arising hereunder.</p>



## Annex 2 – Security

The technical security requirements set out below provide an indication of the types of security measures that might be considered, in order to protect Personal Data. More, or less, measures may be appropriate depending on the subject matter of the contract, but the overall approach must be proportionate. The technical requirements must also be compliant with legislative and regulatory obligations for content and data, such as UK GDPR. The example technical security requirements set out here are intended to supplement, not replace, security schedules that will detail the total contractual security obligations and requirements that the Processor (i.e. a supplier) will be held to account to deliver under contract. Processors are also required to ensure sufficient ‘flow-down’ of legislative and regulatory obligations to any third party Sub-processors.

**External Certifications e.g.** Buyers should ensure that Suppliers hold at least Cyber Essentials certification and ISO 27001:2013 certification if proportionate to the service being procured.

**Risk Assessment e.g.** Supplier should perform a technical information risk assessment on the service supplied and be able to demonstrate what controls are in place to address those risks.

**Security Classification of Information e.g.** If the provision of the Services requires the Supplier to Process Authority/Buyer Data which is classified as OFFICIAL, OFFICIAL-SENSITIVE or Personal Data, the Supplier shall implement such additional measures as agreed with the Authority/Buyer from time to time in order to ensure that such information is safeguarded in accordance with the applicable legislative and regulatory obligations.

### End User Devices e.g.

- The Supplier shall ensure that any Authority/Buyer Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Authority/Buyer except where the Authority/Buyer has given its prior written consent to an alternative arrangement.
- The Supplier shall ensure that any device which is used to Process Authority/Buyer Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

**Testing e.g.** The Supplier shall at their own cost and expense, procure a CHECK or CREST Certified Supplier to perform an ITHC or Penetration Test prior to any live Authority/Buyer data being transferred into their systems. The ITHC scope must be agreed with the Authority/Buyer to ensure it covers all the relevant parts of the system that processes, stores or hosts Authority/Buyer data.

**Networking e.g.** The Supplier shall ensure that any Authority/Buyer Data which it causes to be transmitted over any public network (including the Internet, mobile



networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

**Personnel Security e.g.** All Supplier Personnel shall be subject to a pre-employment check before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard or equivalent including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record. The Supplier maybe required to implement additional security vetting for some roles.

**Identity, Authentication and Access Control e.g.** The Supplier must operate an appropriate access control regime to ensure that users and administrators of the service are uniquely identified. The Supplier must retain records of access to the physical sites and to the service.

**Data Destruction/Deletion e.g.** The Supplier must be able to demonstrate they can supply a copy of all data on request or at termination of the service, and must be able to securely erase or destroy all data and media that the Authority/Buyer data has been stored and processed on.

**Audit and Protective Monitoring e.g.** The Supplier shall collect audit records which relate to security events in delivery of the service or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the service, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority/Buyer Data. The retention periods for audit records and event logs must be agreed with the Authority/Buyer and documented.

**Location of Authority/Buyer Data e.g.** The Supplier shall not, and shall procure that none of its Sub-contractors, process Authority/Buyer Data outside the EEA without the prior written consent of the Authority/Buyer and the Supplier shall not change where it or any of its Sub-contractors process Authority/Buyer Data without the Authority/Buyer's prior written consent which may be subject to conditions.

**Vulnerabilities and Corrective Action e.g.** Suppliers shall procure and implement security patches to vulnerabilities in accordance with the timescales specified in the NCSC Cloud Security Principle 5.

Suppliers must ensure that all COTS Software and Third Party COTS Software be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support.

**Secure Architecture e.g.** Suppliers should design the service in accordance with:

- NCSC "[Security Design Principles for Digital Services](#)"



- NCSC "Bulk Data Principles"
- NSCS "Cloud Security Principles"





## Call-Off Schedule 5 (Pricing Details)

### 1. Ordering Process

1.1 The Buyer shall pay the Supplier for the Services set out in Table 1 of Call Off Schedule 20 (Specification) on an annual basis at the start of each Contract Year.

1.2 The supplier margin that will apply to the Charges shall be [REDACTED]

1.3 All payments will be made in accordance with the Core Terms and the Call- Off Order Form.

1.4 Ahead of each Anniversary Date, the Buyer will confirm their volumes for the next Year and place an Order accordingly.

1.5 The Buyer will place an Order for any additional licences or Services called-off in accordance with Paragraphs 3 and 4 in advance as required.

### 2. Charges for Minimum Commitment

2.1 The minimum commitment is 250 Docker Desktop Business Plan licences purchased for the Call-Off Initial Period.

[REDACTED]

### 3. Charges relating to additional licences

3.1 Any additional licences purchased during the Call-Off Initial Period will be charged at a rate lower than or equivalent to the minimum commitment Charge stated in Paragraph 2.2.

3.2 Any such Charges will be pro rated to the next anniversary date.

3.3 The Charges will be incurred from the date when the licences are first made available to the Buyer.

### 4. Charges for Additional Services

4.1 The buyer may upgrade to the Docker Premium Support and TAM (technical account manager) service if there is a requirement during the Contract Period.

4.2 The Charges will be mutually agreed upon request.

4.3 This will be subject to the Variation Procedure.



## 5. Charges in relation to Extension Period

5.1 Charges will be agreed upon prior to activating the Extension Period.





## Call-Off Schedule 9 (Security)

### Part A: Short Form Security Requirements

#### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<p><b>"Breach of Security"</b></p>	<p><b>1 the occurrence of:</b></p> <ul style="list-style-type: none"> <li>a) <b>any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</b></li> <li>b) <b>the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,</b></li> </ul> <p><b>2 in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;</b></p>
<p><b>"Security Management Plan"</b></p>	<p><b>3 the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.</b></p>



## 2. Complying with security requirements and updates to them

- 2.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 2.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.3 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.5 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

## 3. Security Standards

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
  - 3.2.1 is in accordance with the Law and this Contract;
  - 3.2.2 as a minimum demonstrates Good Industry Practice;
  - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.



## 4. Security Management Plan

### 4.1 Introduction

4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

### 4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.



### 4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

### 4.4 Amendment of the Security Management Plan

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- a) emerging changes in Good Industry Practice;
  - b) any change or proposed change to the Deliverables and/or associated processes;
  - c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
  - d) any new perceived or changed security threats; and
  - e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and



amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:

- a) suggested improvements to the effectiveness of the Security Management Plan;
- b) updates to the risk assessments; and
- c) suggested improvements in measuring the effectiveness of controls.

4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## 5. Security breach

5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:

- 5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:
  - a) minimise the extent of actual or potential harm caused by any Breach of Security;
  - b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
  - c) prevent an equivalent breach in the future exploiting the same cause failure; and
  - d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or



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attempted Breach of Security, including a cause analysis where required by the Buyer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.



## Call-Off Schedule 20 (Call-Off Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Call-Off Contract

### Project Background

One of the products used by the NHSBSA is Docker Desktop, which allows for the provision of Docker containerised environment tool which supports NHSBSA's DDAT on AWS cloud projects. The incumbent supplier is currently CDW Limited.

Tendering Organisations must provide a response in respect of Crown Commercial Services Framework, Technology Product and Associated Services 2 RM6098 (Lot 3 Software)

Tenderers will be evaluated in accordance with the methodology and Evaluation Criteria set out in Appendix 1 (Mandatory Requirement Evaluation Methodology and Evaluation Criteria) to this ITT.

The Customer is seeking a Supplier that can provide a solution.

The Customer is currently using 244 Docker Business licences. In anticipation of increased demand and to ensure continuity of service, the Customer intends to purchase 250 licences as part of a new contractual commitment for a period of 24 months. The price of these licences will be fixed for the term of the Call Off Contract.

To allow for flexibility and scalability, the Customer requires up to 50 additional seats to be called off throughout the duration of the Call Off Contract on an ad-hoc basis. These licences will be the same price as the initial 250 licences for the term of the Call Off Contract. Upon each order, these will be calculated pro-rata to the anniversary date.

There is also potential for further unknown growth in licence volumes as the Call Off Contract progresses. These requirements will be priced upon request but the maximum price will be the price for the initial 250.

### Call Off Contract Scope and Future Change

In line with the requirements indicated, there is a possibility that the size, scope, and scale of the Docker Desktop services / products may change in the future. The successful Tendering Organisation is required to adapt to these changes and facilitate any new and/or adjusted business requirements throughout the life of the Call Off Contract.

### Call Off Contract Term



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The Customer proposes to enter a Call Off Contract with a single successful Tendering Organisation for a period of 24 months plus an extension period of 12 months at the Customer's sole discretion.

In the extension period, all licences may include a price increase. Any such price increase shall be limited to a maximum increase of 7%.



Business Services Authority



Crown  
Commercial  
Service

# Core Terms - RM6098



## 1. Definitions used in the contract

Interpret this Contract using Joint Schedule 1 (Definitions).

## 2. How the contract works

- 2.1 The Supplier is eligible for the award of Call-Off Contracts during the Framework Contract Period.
- 2.2 CCS does not guarantee the Supplier any exclusivity, quantity or value of work under the Framework Contract.
- 2.3 CCS has paid one penny to the Supplier legally to form the Framework Contract. The Supplier acknowledges this payment.
- 2.4 If the Buyer decides to buy Deliverables under the Framework Contract it must use Framework Schedule 7 (Call-Off Award Procedure) and must state its requirements using Framework Schedule 6 (Order Form Template and Call-Off Schedules). If allowed by the Regulations, the Buyer can:
  - (a) make changes to Framework Schedule 6 (Order Form Template and Call-Off Schedules);
  - (b) create new Call-Off Schedules;
  - (c) exclude optional template Call-Off Schedules; and/or
  - (d) use Special Terms in the Order Form to add or change terms.
- 2.5 Each Call-Off Contract:
  - (a) is a separate Contract from the Framework Contract;
  - (b) is between a Supplier and a Buyer;
  - (c) includes Core Terms, Schedules and any other changes or items in the completed Order Form; and
  - (d) survives the termination of the Framework Contract.
- 2.6 Where the Supplier is approached by any Other Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this Framework Contract before accepting their order.
- 2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.
- 2.8 The Supplier will not be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - (a) verify the accuracy of the Due Diligence Information; or
  - (b) properly perform its own adequate checks.



- 2.9 CCS and the Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All deliverables**

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the Framework Tender Response and, in relation to a Call-Off Contract, the Call-Off Tender (if there is one);
- (b) to a professional standard;
- (c) using reasonable skill and care;
- (d) using Good Industry Practice;
- (e) using its own policies, processes and internal quality control measures as long as they do not conflict with the Contract;
- (f) on the dates agreed; and
- (g) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

#### **3.2 Goods clauses**

3.2.1 All Goods delivered must be new, or as new if recycled or refurbished, and of known origin and authenticity.

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.

3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.



- 3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- 3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they do not conform with Clause 3. If the Supplier does not do this it will pay the Buyer's costs including repair or re-supply by a third party.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of a Call-Off Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the



Order Form.

- 4.2 CCS must invoice the Supplier for the Management Charge and the Supplier must pay it using the process in Framework Schedule 5 (Management Charges and Information).
- 4.3 All Charges and the Management Charge:
- (a) exclude VAT, which is payable on provision of a valid VAT invoice; and
  - (b) include all costs connected with the Supply of Deliverables.
- 4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.
- 4.5 A Supplier invoice is only valid if it:
- (a) includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and
  - (c) does not include any Management Charge (the Supplier must not charge the Buyer in any way for the Management Charge).
- 4.6 The Buyer must accept and process for payment an undisputed Electronic Invoice received from the Supplier.
- 4.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 4.8 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, CCS or the Buyer can publish the details of the late payment or non-payment.
- 4.9 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables, then CCS or the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.
- 4.10 If CCS or the Buyer uses Clause 4.9 then the Framework Prices (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.
- 4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

- 5.1 If Supplier Non-Performance arises from an Authority Cause:



- (a) neither CCS or the Buyer can terminate a Contract under Clause 10.4.1;
- (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability and Deduction under this Contract;
- (c) the Supplier is entitled to additional time needed to make the Delivery; and
- (d) the Supplier cannot suspend the ongoing supply of Deliverables.

5.2 Clause 5.1 only applies if the Supplier:

- (a) gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware;
- (b) demonstrates that the Supplier Non-Performance would not have occurred but for the Authority Cause; and
- (c) mitigated the impact of the Authority Cause.

## **6. Record keeping and reporting**

6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract:

- (a) during the Contract Period;
- (b) for 7 years after the End Date; and
- (c) in accordance with UK GDPR,

including but not limited to the records and accounts stated in the definition of Audit in Joint Schedule 1.

6.3 The Relevant Authority or an Auditor can Audit the Supplier.

6.4 During an Audit, the Supplier must:

- (a) allow the Relevant Authority or any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit; and
- (b) provide information to the Relevant Authority or to the Auditor and reasonable co-operation at their request.

6.5 Where the Audit of the Supplier is carried out by an Auditor, the Auditor shall be entitled to share any information obtained during the Audit with the Relevant Authority.

6.6 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:



- (a) tell the Relevant Authority and give reasons;
  - (b) propose corrective action; and
  - (c) provide a deadline for completing the corrective action.
- 6.7 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:
- (a) the methodology of the review;
  - (b) the sampling techniques applied;
  - (c) details of any issues; and
  - (d) any remedial action taken.
- 6.8 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

## 7. Supplier staff

- 7.1 The Supplier Staff involved in the performance of each Contract must:
- (a) be appropriately trained and qualified;
  - (b) be vetted using Good Industry Practice and the Security Policy; and
  - (c) comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where a Buyer decides one of the Supplier's Staff is not suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.
- 7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

## 8. Rights and protection

- 8.1 The Supplier warrants and represents that:
- (a) it has full capacity and authority to enter into and to perform each Contract;
  - (b) each Contract is executed by its authorised representative;
  - (c) it is a legally valid and existing organisation incorporated in the place it was formed;
  - (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates



- that might affect its ability to perform each Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract;
  - (f) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract;
  - (g) it is not impacted by an Insolvency Event; and
  - (h) it will comply with each Call-Off Contract.

8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies both CCS and every Buyer against each of the following:

- (a) wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
- (b) non-payment by the Supplier of any Tax or National Insurance.

8.4 All claims indemnified under this Contract must use Clause 26.

8.5 The description of any provision of this Contract as a warranty does not prevent CCS or a Buyer from exercising any termination right that it may have for breach of that clause by the Supplier.

8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify CCS and every Buyer.

8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **9. Intellectual Property Rights (IPRs)**

9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:

- (a) receive and use the Deliverables; and
- (b) make use of the deliverables provided by a Replacement Supplier.

9.2 Any New IPR created under a Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.

9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.



- 9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.
- 9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
  - (b) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 9.7 In spite of any other provisions of a Contract and for the avoidance of doubt, award of a Contract by the Buyer and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Supplier acknowledges that any authorisation by the Buyer under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific IPR involved.

## **10. Ending the contract or any subcontract**

### **10.1 Contract Period**

- 10.1.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.
- 10.1.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

### **10.2 Ending the contract without a reason**

- 10.2.1 CCS has the right to terminate the Framework Contract at any time without reason by giving the Supplier at least 30 days' notice.
- 10.2.2 Each Buyer has the right to terminate their Call-Off Contract at any time without reason by giving the Supplier not less than 90 days' written notice.

### **10.3 Rectification plan process**

- 10.3.1 If there is a Default, the Relevant Authority may, without limiting its other rights, request that the Supplier provide a Rectification Plan, within 10 working days .
- 10.3.2 When the Relevant Authority receives a requested Rectification Plan it can either:
- (a) reject the Rectification Plan or revised Rectification Plan, giving reasons; or
  - (b) accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost,



unless agreed otherwise by the Parties.

10.3.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:

- (a) must give reasonable grounds for its decision; and
- (b) may request that the Supplier provides a revised Rectification Plan within 5 Working Days.

10.3.4 If the Relevant Authority rejects any Rectification Plan, including any revised Rectification Plan, the Relevant Authority does not have to request a revised Rectification Plan before exercising its right to terminate its Contract under Clause 10.4.3(a).

## 10.4 When CCS or the buyer can end a contract

10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) there is a Supplier Insolvency Event;
- (b) there is a Default that is not corrected in line with an accepted Rectification Plan;
- (c) the Supplier does not provide a Rectification Plan within 10 days of the request;
- (d) there is any material Default of the Contract;
- (e) there is any material Default of any Joint Controller Agreement relating to any Contract;
- (f) there is a Default of Clauses 2.10, 9, 14, 15, 27, 32 or Framework Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract;
- (g) there is a consistent repeated failure to meet the Performance Indicators in Framework Schedule 4 (Framework Management);
- (h) there is a Change of Control of the Supplier which is not pre-approved by the Relevant Authority in writing;
- (i) if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded; or
- (j) the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them.

10.4.2 CCS may terminate the Framework Contract if a Buyer terminates a Call-Off Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If any of the following non-fault based events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) the Relevant Authority rejects a Rectification Plan;
- (b) there is a Variation which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes);
- (c) if there is a declaration of ineffectiveness in respect of any Variation; or
- (d) the events in 73 (1) (a) of the Regulations happen.

## 10.5 When the supplier can end the contract



- 10.5.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate a Call-Off Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

## 10.6 What happens if the contract ends

- 10.6.1 Where a Party terminates a Contract under any of Clauses 10.2.1, 10.2.2, 10.4.1, 10.4.2, 10.4.3, 10.5 or 20.2 or a Contract expires all of the following apply:

- (a) The Buyer's payment obligations under the terminated Contract stop immediately.
- (b) Accumulated rights of the Parties are not affected.
- (c) The Supplier must promptly repay to the Buyer any and all Charges the Buyer has paid in advance in respect of Deliverables not provided by the Supplier as at the End Date.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

- 10.6.2 In addition to the consequences of termination listed in Clause 10.6.1, where the Relevant Authority terminates a Contract under Clause 10.4.1 the Supplier is also responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

- 10.6.3 In addition to the consequences of termination listed in Clause 10.6.1, if either the Relevant Authority terminates a Contract under Clause 10.2.1 or 10.2.2 or a Supplier terminates a Call-Off Contract under Clause 10.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier; and
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated.

- 10.6.4 In addition to the consequences of termination listed in Clause 10.6.1, where a Party terminates under Clause 20.2 each Party must cover its own Losses.

- 10.6.5 The following Clauses survive the termination or expiry of each Contract: 3.2.10, 4.2, 6, 7.5, 9, 11, 12.2, 14, 15, 16, 17, 18, 31.3, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

## 10.7 Partially ending and suspending the contract

- 10.7.1 Where CCS has the right to terminate the Framework Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Call-Off



Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Call-Off Contracts that have already been signed.

- 10.7.2 Where CCS has the right to terminate a Framework Contract it is entitled to terminate all or part of it.
- 10.7.3 Where the Buyer has the right to terminate a Call-Off Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.
- 10.7.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.
- 10.7.5 The Parties must agree any necessary Variation required by Clause 10.7 using the Variation Procedure, but the Supplier may not either:
- (a) reject the Variation; or
  - (b) increase the Charges, except where the right to partial termination is under Clause 10.2.
- 10.7.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.7.

## 10.8 When subcontracts can be ended

- 10.8.1 At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:
- (a) there is a Change of Control of a Subcontractor which is not pre-approved by the Relevant Authority in writing;
  - (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4; or
  - (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority.

## 11. How much you can be held responsible for

- 11.1 Each Party's total aggregate liability in each Contract Year under this Framework Contract (whether in tort, contract or otherwise) is no more than £1,000,000.
- 11.2 Each Party's total aggregate liability in each Contract Year under each Call-Off Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Call-Off Order Form.
- 11.3 No Party is liable to the other for:
- (a) any indirect Losses; or



- (b) Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:
- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
  - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
  - (c) any liability that cannot be excluded or limited by Law;
  - (d) its obligation to pay the required Management Charge or Default Management Charge.
- 11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3(b), 9.5, 31.3 or Call-Off Schedule 2 (Staff Transfer) of a Contract.
- 11.6 In spite of Clauses 11.1, 11.2 but subject to Clauses 11.3 and 11.4, the Supplier's aggregate liability in each and any Contract Year under each Contract under Clause 14.8 shall in no event exceed the Data Protection Liability Cap.
- 11.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.
- 11.8 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:
- (a) Deductions; and
  - (b) any items specified in Clauses 11.5 or 11.6.
- 11.9 If more than one Supplier is party to a Contract, each Supplier Party is jointly and severally liable for their obligations under that Contract.

## **12. Obeying the law**

- 12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).
- 12.2 To the extent that it arises as a result of a Default by the Supplier, the Supplier indemnifies the Relevant Authority against any fine or penalty incurred by the Relevant Authority pursuant to Law and any costs incurred by the Relevant Authority in defending any proceedings which result in such fine or penalty.
- 12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.



### **13. Insurance**

- 13.1 The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

### **14. Data protection**

- 14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).
- 14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.
- 14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.
- 14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.
- 14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
  - (b) restore the Government Data itself or using a third party.
- 14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless CCS or the Buyer is at fault.
- 14.8 The Supplier:
- (a) must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request;
  - (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
  - (d) securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it; and
  - (e) indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches



Clause 14 and any Data Protection Legislation.

## 15. What you must keep confidential

15.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) except as expressly set out in the Contract at Clauses 15.2 to 15.4 or elsewhere in the Contract, not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent; and
- (c) immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the Disclosing Party's Confidential Information;
- (f) on a confidential basis, to its auditors;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis; or
- (h) to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 In spite of Clause 15.1, the Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 In spite of Clause 15.1, CCS or the Buyer may disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry



- out its public functions;
- (d) where requested by Parliament; or
- (e) under Clauses 4.7 and 16.

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

## **16. When you can share information**

16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.

16.2 Within five (5) Working Days of the Buyer's request the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:

- (a) publish the Transparency Information;
- (b) comply with any Freedom of Information Act (FOIA) request; and/or
- (c) comply with any Environmental Information Regulations (EIR) request.

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision in its absolute discretion.

## **17. Invalid parts of the contract**

17.1 If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it is valid or enforceable.

## **18. No other terms apply**

18.1 The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements, agreements and any course of dealings made between the Parties, whether written or oral, in relation to its subject matter. No other provisions apply.

## **19. Other people's rights in a contract**

19.1 No third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce



any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

- (a) provides a Force Majeure Notice to the other Party; and
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either Party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

## **21. Relationships created by the contract**

21.1 No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **22. Giving up contract rights**

22.1 A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **23. Transferring responsibilities**

23.1 The Supplier cannot assign, novate or transfer a Contract or any part of a Contract without the Relevant Authority's written consent.

23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Central Government Body, public or private sector body which performs the functions of the Relevant Authority.

23.3 When CCS or the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that CCS or the Buyer specifies.

23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If CCS or the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- (a) their name;



- (b) the scope of their appointment; and
- (c) the duration of their appointment.

## 24. Changing the contract

24.1 Either Party can request a Variation which is only effective if agreed in writing and signed by both Parties.

24.2 The Supplier must provide an Impact Assessment either:

- (a) with the Variation Form, where the Supplier requests the Variation; or
- (b) within the time limits included in a Variation Form requested by CCS or the Buyer.

24.3 If the Variation cannot be agreed or resolved by the Parties, CCS or the Buyer can either:

- (a) agree that the Contract continues without the Variation; or
- (b) terminate the affected Contract, unless in the case of a Call-Off Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; or
- (c) refer the Dispute to be resolved using Clause 34 (Resolving Disputes).

24.4 CCS and the Buyer are not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give CCS and the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, Framework Prices or a Contract and provide evidence:

- (a) that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
- (b) of how it has affected the Supplier's costs.

24.7 Any change in the Framework Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

24.8 For 101(5) of the Regulations, if the Court declares any Variation ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of the Contract as they existed immediately prior to that Variation and as if the Parties had never entered into that Variation.

## 25. How to communicate about the contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they are delivered before 5:00pm on a Working Day. Otherwise the



notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

- 25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address in the Framework Award Form.
- 25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.
- 25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **26. Dealing with claims**

- 26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.
- 26.2 At the Indemnifier's cost the Beneficiary must both:
  - (a) allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
  - (b) give the Indemnifier reasonable assistance with the claim if requested.
- 26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.
- 26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.
- 26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.
- 26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
  - (a) the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
  - (b) the amount the Indemnifier paid the Beneficiary for the Claim.

## **27. Preventing fraud, bribery and corruption**

- 27.1 The Supplier must not during any Contract Period:



- (a) commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or
- (b) do or allow anything which would cause CCS or the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

27.2 The Supplier must during the Contract Period:

- (a) create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- (b) keep full records to show it has complied with its obligations under Clause 27 and give copies to CCS or the Buyer on request; and
- (c) if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

27.3 The Supplier must immediately notify CCS and the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- (a) been investigated or prosecuted for an alleged Prohibited Act;
- (b) been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
- (c) received a request or demand for any undue financial or other advantage of any kind related to a Contract; or
- (d) suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act.

27.4 If the Supplier notifies CCS or the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

27.5 In any notice the Supplier gives under Clause 27.3 it must specify the:

- (a) Prohibited Act;
- (b) identity of the Party who it thinks has committed the Prohibited Act; and
- (c) action it has decided to take.

## **28. Equality, diversity and human rights**

28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:

- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion



- (b) or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law.

28.2 The Supplier must take all necessary steps, and inform CCS or the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

## 29. Health and safety

29.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable Law regarding health and safety; and  
(b) the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they are aware of at the Buyer Premises that relate to the performance of a Contract.

## 30. Environment

30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## 31. Tax

31.1 The Supplier must not breach any Tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Buyer cannot terminate a Contract where the Supplier has not paid a minor Tax or social security contribution.

31.2 Where the Charges payable under a Contract with the Buyer are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify CCS and the Buyer of it within 5 Working Days including:

- (a) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and  
(b) other information relating to the Occasion of Tax Non-Compliance that CCS and the Buyer may reasonably need.

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under a Call-Off Contract, the Supplier



must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers is not good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements; and
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## 32. Conflict of interest

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to CCS and each Buyer if a Conflict of Interest happens or is expected to happen.

32.3 CCS and each Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

## 33. Reporting a breach of the contract

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to CCS or the Buyer any actual or suspected breach of:

- (a) Law;
- (b) Clause 12.1; or
- (c) Clauses 27 to 32.



33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.

## 34. Resolving disputes

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- (a) determine the Dispute;
- (b) grant interim remedies; and/or
- (c) grant any other provisional or protective relief.

34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

## 35. Which law applies

35.1 This Contract and any Disputes arising out of, or connected to it, are governed by English law.



# Joint Schedule 5 (Corporate Social Responsibility)

## Definitions

In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"First Tier"</b>	the brand company;
<b>"Second Tier"</b>	the final assembly factory linked to the procured product model; and
<b>"Third Tier"</b>	component production factory linked to the procured product model for strategic components, such as CPU, memory, main logic board, display, battery, power supply unit etc.

## 1. What we expect from our Suppliers

- 1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-13\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)
- 1.2 CCS expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, CCS expects its suppliers and subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

## 2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.
  - 2.1.3



### 3. Modern Slavery, Child Labour and Inhumane Treatment

3.1 Not Used

3.2 Not Used

3.3 The Supplier:

- 3.3.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.3.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
- 3.3.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- 3.3.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world.
- 3.3.5 shall make reasonable enquiries to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world.
- 3.3.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.3.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.3.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;



- 3.3.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.3.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.3.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

**"Helpline"** means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

#### 4. Income Security

##### 4.1 The Supplier shall:

- 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.3 not make deductions from wages:
  - (a) as a disciplinary measure
  - (b) except where permitted by law; or
  - (c) without expressed permission of the worker concerned;
- 4.1.4 record all disciplinary measures taken against Supplier Staff; and
- 4.1.5 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.



## 5. Working Hours

### 5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime used responsibly, taking into account:
  - the extent;
  - frequency; and
  - hours worked;

by individuals and by the Supplier Staff as a whole;

5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.

5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:

- 5.3.1 this is allowed by national law;
- 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;  
appropriate safeguards are taken to protect the workers' health and safety; and
- 5.3.3 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

## 6. Sustainability

6.1 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

6.2 The Supplier shall use reasonable endeavours to avoid the use of paper and card in carrying out its obligations under this Contract. Where unavoidable under reasonable endeavours, the Supplier shall ensure that any paper or card deployed in the performance of the Services consists of



one hundred percent (100%) recycled content and used on both sides where feasible to do so

- 6.3 The Supplier shall complete and provide CCS with a Carbon Reduction Plan.
- 6.4 The Supplier shall progress towards carbon net zero during the lifetime of the framework.

## Annex 1

Joint Schedule 5 - Annex 1 Factory Disclosure Form - TePAS2 RM 6098



Joint Schedule 5 -  
Annex 1 Factory Discl



**Business Services Authority**

## **APPENDIX C – Docker Environment Social and Governance Programme**



## Docker ESG Program

Last Updated September 04, 2025

As part of our commitment to long-term sustainability, corporate responsibility, and ethical leadership, Docker's **Environmental, Social, and Governance (ESG) program** reflects our values, strengthens our operational resilience, and supports our stakeholders — from employees and customers to communities and investors.

ESG initiatives help us:

- Align with evolving internal, external and customer stakeholder expectations
- Enhance transparency and trust as a responsible employer and global corporation
- Improve operational efficiency and risk management
- Contribute to a healthier planet and more sustainable future
- Attract and retain top talent and responsible investors

### Environmental Focus

Docker gives consideration and care to our environmental footprint and has taken significant measures in areas where we can have the greatest impact on sustainability.

- *Remote Work*  
The biggest environmental contribution is Docker's reliance on a 100% remote workforce. This reduces our carbon footprint, land use / ecological footprint, electricity, heating/cooling and waste footprint through elimination of corporate facilities, office infrastructure and supplies.

While we have not worked with a certified third party to validate our calculations, - we estimate that the elimination of daily commutes for our remote workforce results in a significant annual reduction in CO<sub>2</sub>e emissions, aligned with industry benchmarks.

- *Business Travel*  
Docker utilizes a travel platform which keeps track of carbon emissions for Docker Business travel and raises employee awareness of their carbon footprint.

### Social Focus

Docker is committed to employee well being, fostering a fair and inclusive workplace and respecting fundamental human rights internally and across our supply chain. Through our People Team and Compliance Teams, Docker fosters social imperatives for our company and workforce.

- *Employee Well-being*  
We are dedicated to establishing an organization that reflects the fundamental respect for different ways of working and living, and we are committed to fostering an inclusive workplace



where employees are supported and empowered to grow and succeed. Programs and pathways to support well-being include:

- Whaleness Days - non-holiday paid time off to re-charge for all employees
- Wellness Coach - personal coaching for mental and physical health
- Employee Assistance Program

- *Diversity and Inclusion*

The People Team at Docker drives various DEIB initiatives in collaboration with the company's ERG leaders and recruiting. Our Diversity Mission Statement is on our careers page at: <https://www.docker.com/careers/>

Docker is an equal opportunity employer and makes employment decisions on the basis of merit and Company needs. Creating an inclusive and professional environment where employees feel comfortable, safe, and free from inappropriate and disrespectful conduct is one of the Company's core values.

The Company does not discriminate against (in any aspect of employment, including recruiting and hiring, job assignment, compensation, opportunities for advancement, promotion, transfers, evaluation, benefits, training, discipline, and termination), nor does it tolerate harassment by any person, including, co-workers, managers, and third parties, on the basis of the following Protected Characteristics: Race, color, religion (including religious creed, dress, and grooming practices), citizenship, marital status, age, national origin, ancestry, mental or physical disability (including HIV and AIDS disabilities), genetic information, medical condition (as defined by applicable law, including cancer), U.S. (state and federal) military and veteran status, sexual orientation, gender identity, gender expression, sex, gender, and pregnancy (including childbirth, breastfeeding, or related medical condition).

- *Modern Slavery*

Docker is committed to conducting its business ethically and responsibly. We recognize the importance of addressing the risks of modern slavery in our operations and supply chains. While we don't provide hardware or conduct manufacturing activities, our global operations involve various supply chains where we acknowledge that modern slavery risks can exist. We are taking steps to understand and address these risks.

Docker recognizes that modern slavery takes on many forms including forced labor, child labor, human trafficking, criminal and financial exploitation, etc.

Docker has supplier expectations for ethical labor practices and behavior. We are enhancing our due diligence processes to assess and mitigate potential risks. We have methods to evaluate the effectiveness of our actions and consult with relevant stakeholders as part of our ongoing efforts.

Docker is committed to continuous improvement in our efforts to address modern slavery and we will continue to review and enhance our policies and procedures.



- *Anti-Harassment Policy*  
The Company also prohibits discrimination and harassment based on the perception that an employee falls within one of the categories of Protected Characteristics or based on the employee's association with a person who falls within, or is perceived to fall within, one of the categories of Protected Characteristics. These prohibitions apply in the workplace, on business trips, during business meetings, at business-related social events, and at any other location where a Company-sponsored event takes place.

## Governance Focus

Docker has a Code of Conduct and a collaborative team of HR, legal, compliance, leadership and management professionals who are responsible for complying with applicable laws and regulations.

Docker publishes its virtues and information about our company culture on our careers page at: <https://www.docker.com/careers/>

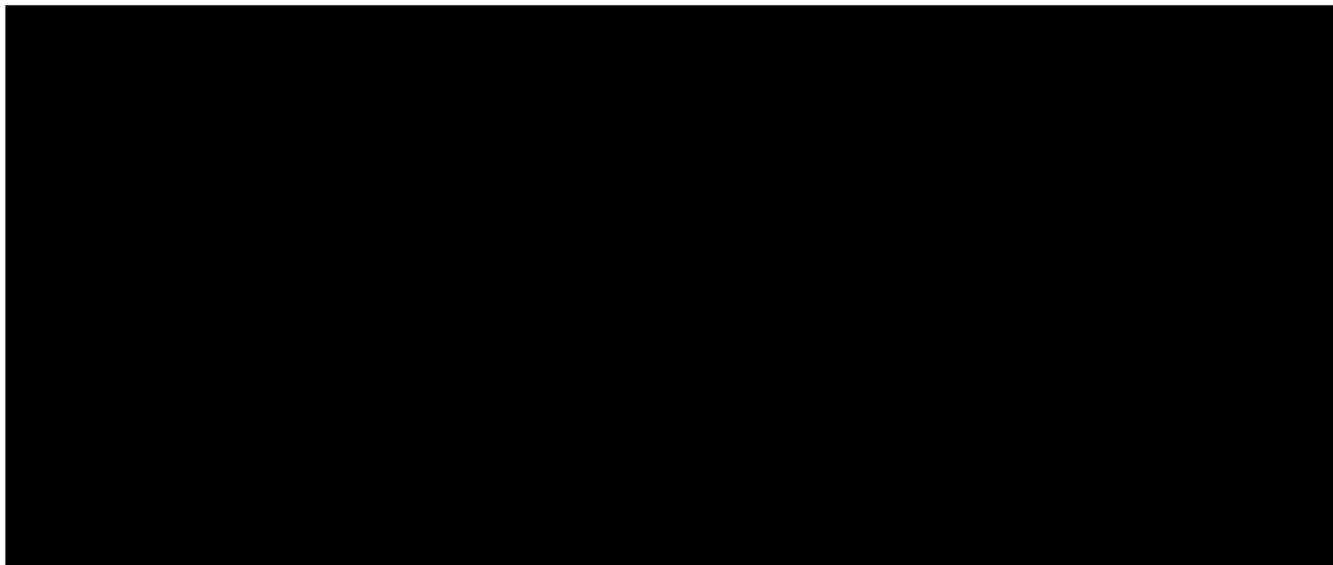
- *Employment and Labor Laws*  
Docker has a cross collaborative team that includes HR and legal that is responsible for complying with all applicable labor laws for our global workforce. From no forced labor
- *Documented Policies and Procedures*  
Docker's Code of Conduct and policies are made available to employees on the company's internal wiki. These policies are communicated at time of hire, during onboarding and are reinforced via employee communications and training. Security policies, for example, are reviewed annually through required training..
- *Employee Ethics, Anti-Corruption/Anti-Bribery Policy*  
All Docker employees are required to read and sign Docker's Code of Conduct which outlines our ethical standards and to complete various ethics and compliance training. Docker provides access to a third-party-managed anonymous reporting platform, subject to local legal requirements and availability.

## Call-Off Schedule 4 (Call Off Tender)

### 1. Requirements

3 QUALITY/TECHNICAL REQUIREMENTS			
Guidance:			
<p>This is a mandatory set of requirements based on the solution and product required. Suppliers must confirm that the solution meets the requirements set out below by indicating a yes/no response against each statement.</p> <p>Yes= Pass No= Fail</p>			
3.1	We confirm that we are willing to be assured by the formal NHSBSA Third Party Assurance process so that any risks presented by the supplier can be effectively communicated within the business.	Yes	
3.2	We confirm the solution will ensure all sensitive data is encrypted at rest and in transit.	Yes	
3.3	We confirm the solution will provide the ability to manage users appropriately and effectively.	Yes	
3.4	We confirm the solution can provide the ability to implement Multi Factor Authentication (MFA) where possible.	Yes	
3.5	We ensure the solution provides a transparent audit trail of all user activities and including create, update, delete and view	Yes	
3.6	<p>We will ensure that any personal data which is processed in the system MUST be subject to a Data Protection Impact Assessment.</p> <p>We confirm to work with NHSBSA to put in place an appropriate DPIA for the system or any use of artificial intelligence or machine learning."</p>	Yes	
3.7	We ensure to comply with the latest data protection legislation published and explain how we meet the legislative requirements.	Yes	
3.8	We confirm that all data processed is in the UK / EEA, including data centres and any sub-processor	Yes	

3.9	We confirm that we are registered with the Information Commissioner’s Office (ICO) as a data controller/processor.	Yes	
3.10	We have an up-to-date Privacy Notice available to the public on the website which includes any use of artificial intelligence or machine learning.	Yes	
3.11	We as a supplier will confirm if we engage with any sub-contractors and can provide the supply chain information.	Yes	
3.12	We ensure there is a Records Management Policy and Procedure in place.	Yes	
3.13	We ensure there is a IG Incident Management Policy and process in place.	Yes	
3.14	We ensure there is a record of processing activity (ROPA) and ensure any use of artificial intelligence and machine learning is documented on the suppliers ROPA.	Yes	
3.15	We confirm any use of customer personal data which will be processed via artificial intelligence or machine learning, including to train and test AI and/or machine learning. We confirm this complies with the latest data protection legislation published and UK Government and ICO guidance. The NHSBSA will be given an option to opt out of this proposed use.  Note: this includes any use of NHSBSA personal data to train AI solutions. "	Yes	



**Appendix One- Docker Subscription Service Agreement**

# Docker Subscription Service Agreement

Last updated July 2, 2025

This Docker Subscription Service Agreement (“**Agreement**”), by and between the Customer identified on the applicable Order Form and Docker, Inc. (“**Docker**”), shall govern Customer’s initial purchase on the Effective Date (set forth on Customer’s initial Order Form) as well as any future purchases made by Customer which reference this Agreement. The parties hereby agree as follows:

1. **Definitions.** Capitalized terms shall have the meanings defined herein.

“**Account Administrator**” or “**Account Owner**” means an individual named User of the Service who has been authorized by the Customer to manage the Subscription.

“**Add-on Services**” means those additional software or services that may be offered in the future as additional software or services at such prices as may be noted by Docker at that time.

“**AI Features**” shall mean features of the Service enabled by artificial intelligence that are designed to assist Users with analytics, automation, prediction, decision-making or other tasks.

“**Customer**” or “**you**” shall mean the entity you represent or, if that does not apply, to you individually.

“**Customer Data**” means all information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer in the course of using the Service. For avoidance of doubt, Customer Data does not include data and information related to Customer’s use of the Service that is aggregated and/or anonymized, including performance information related to the Service, or any other information reflecting the access and use of the Service by or on behalf of Customer or its Users (“**Usage Data**”). “**Data Processing Agreement**” means Docker’s data processing agreement available at <https://www.docker.com/legal/data-processing-agreement>.

“**Docker Build Cloud**” means the hosted cloud service for building container images.

“**Docker Desktop**” means the downloadable object-code of the desktop client software component of the Service.

“**Docker Hardened Images**” and “**DHI**” mean a catalog of security-enhanced Docker Images.

“**Docker Hub**” means the hosted repository component of the Service for finding and sharing container images.

“**Docker Images**” means an executable Docker software package for running one or more

software applications published by Docker.

**“Docker Scout”** means a component of the Service used for providing insights and suggestions on improving software supply chain including aspects of security and vulnerability scanning.

**“Docker Product Suite” or “Service”** means the development, generally available cloud subscription software products, and downloadable components thereof, ordered by Customer as set forth in an applicable Order Form, including Docker Desktop, Docker Hardened Images, Docker Hub, Docker Scout, Docker Build Cloud, Testcontainers Cloud, and any Add-on Services, as well as any updates thereto. Except for certain third-party software expressly set forth in an applicable Order Form, the definition of Docker Product Suite does not include Third-Party Products or content available in a registry or repository via the Service, which are instead subject to the corresponding third-party’s license or terms.

**“Documentation”** means the Service documentation made available by Docker on the Docker website at <https://docs.docker.com>.

**“Entitlements”** means the User license quantities, usage minutes, use credits, image pull count and storage limits, and any additional Services usage limits or support features, included in the Subscription purchased by Customer.

**“Trial Services”** and **“POC”** mean software or services that are distributed or otherwise made available for Customer to try at its option, and which are provided “as is” without warranties or indemnities of any kind, and which may be designated as Early Access Products, beta, limited release, developer preview, non-production, proof of concept, evaluation, or that are similarly described in the corresponding Order Form, applicable Docker online Trial Services registration process, or Documentation..

**“Fees”** means the corresponding monetary amounts quoted for a Subscription or Entitlement.

**“Government Entity”** means (1) any federal, national, supranational, state, provincial, Commonwealth, local or foreign or similar government, governmental subdivision, regulatory or administrative body or other governmental or quasi-governmental agency, tribunal, commission, court, judicial or arbitral body or other entity with competent jurisdiction; (2) any entity directly or indirectly owned or controlled by the government or a government organization; (3) any entity created by law or decree; (4) any entity whose principal source of funds comes from the government; or (5) any department, agency, or instrumentality of a public international organization. It is within Docker’s sole discretion to determine if an entity is considered a Government Entity under the terms of this definition.

**“Marketplace”** means a third-party online marketplace such as Amazon Web Services, or other authorized platforms (each, a “Marketplace”) through which Customer completes a Service license purchase.

**“On-Demand Usage”** means usage in excess of the Entitlements’ consumption limits included or additionally purchased.

**“Open Source Software”** means third-party software that is distributed or otherwise made available as “free software”, “open source software” or under a similar licensing or distribution model.

**“Order Form”** means the digital or physical ordering document identifying the products and related Fees as applicable for Customer’s authorized purchases from Docker. Order Forms shall be deemed incorporated herein by reference.

**“Pricing Page”** means the Pricing and Subscriptions page which has a description of the Offering tier of the Service set forth at <https://www.docker.com/pricing>.

**“Public Sector SSA”** means the Public Sector Subscription Service Agreement applicable to U.S. Public Sector Customers, available at <https://www.docker.com/static/Docker-Public-Sector-SSA.pdf>

**“Reseller”** means a Docker authorized third-party reseller partner.

**“Subscription”** or **“Offering”** means the specific Entitlements ordered pursuant to an applicable Order Form.

**“Subscription Term”** means the period of time set forth in the applicable Order Form during which Customer is authorized to use the Service.

**“Testcontainers Cloud”** means the hosted cloud service of the Service for provisioning disposable, on-demand virtual containers for software development and testing use cases.

**“Third-Party Products”** means optionable hosted or downloadable software or services licensed by third-parties and that Docker may make available for Customer to use in conjunction with the Docker Product Suite. Except as otherwise specified in an Order Form, such Third-Party Products shall be subject to the corresponding third-party’s license or terms, as applicable.

**“Trial Services”** and/or **“POCs”** means software or services that are distributed or otherwise made available for Customer to try at its option, and which are provided “as is” without warranties or indemnities of any kind, and which may be designated as Early Access Products, beta, limited release, developer preview, non-production, proof of concept, evaluation, or that are similarly described in the corresponding Order Form, applicable Docker online Trial Services registration process, or Documentation.

**“User”** means an individual human authorized by Customer to log into or to otherwise use the Service for Customer’s internal business purposes and in accordance with the terms of this Agreement and the applicable Order Form. For paid Offerings, Users may include employees, consultants, contractors, and agents of Customer or its affiliates subject at all times to the license restrictions of this Agreement.

**“U.S. Public Sector Customer”** means solely with regard to United States Customers, any Government Entity. The term also includes state, local, or public education entities created by the laws (including constitution or statute) of a U.S. state or commonwealth (“SLED”).

## 2. License and Ownership.

2.1 Subject to the terms and conditions of the Agreement and the applicable Order Form,

Docker hereby grants Customer a limited, non-exclusive, non-transferable, non-sublicensable license during the applicable Subscription Term for Customer to permit its Users to: (i) download, install, run, and use Docker Desktop and (ii) access and use Docker Hub, and otherwise access and use the Service, in accordance with the applicable Documentation for Customer's internal business purposes. Notwithstanding the foregoing Docker Customer may redistribute Docker Images to third parties but solely when bundled with or incorporated into its own software products, and not on a standalone basis, and solely in accordance with the terms of this Agreement, including the restrictions in Section 4 herein. All third party images shall be deemed Third-Party Products subject to their corresponding terms and conditions. Customer understands and agrees that Users require a Docker Hub account in order to receive the corresponding access to the Service. Docker owns the Usage Data. Nothing herein will be construed as restricting or prohibiting Docker from utilizing the Usage Data in any way, including to optimize and improve the Docker Product Suite or related Docker services so long as the Usage Data remains aggregated and de-identified, or to enforce this Agreement.

2.2 Customer grants to Docker, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, transmit and display Customer Data, as reasonably necessary for Docker to provide the Service in accordance with this Agreement. Customer will: (a) be solely responsible for the nature, quality and accuracy of the Customer Data, (b) ensure that the Customer Data complies with the terms of this Agreement and all applicable laws, (c) promptly handle and resolve any notices and claims relating to the Customer Data, and (d) ensure that it has the rights to the Customer Data necessary to grant Docker the rights contemplated by this Agreement. Docker has no liability to Customer or any third party as a result of: (i) any unauthorized disclosure or access to an Administrator's or User's account or Customer Data as a result of an Administrator's or User's, misuse of the Service or loss or theft of any Administrator or User password or username, except to the extent resulting from Docker's gross negligence or willful misconduct, (ii) any deletion, destruction, damage or loss of Customer Data caused by, or at the direction of, Customer, or (iii) Customer's failure to maintain adequate security or virus controls in any devices used to access the Service.

2.3 The Service is made available for use or licensed, not sold. Customer acknowledges and agrees that this Agreement does not transfer to Customer any Docker or third-party intellectual property rights. Customer acknowledges and agrees that, as between Docker and Customer, Docker owns all right, title, and interest in and to the Service (including any improvements, modifications, and enhancements thereto), and Docker shall, notwithstanding any other term of this Agreement, remain the owner of the Service. All rights not expressly granted by Docker herein are reserved.

2.4 During the Subscription Term, Docker will provide support for the Service in accordance with the Service Level Agreement & Terms available at <https://www.docker.com/support/>, as applicable to the products and support purchased via an Order Form.

2.5 Docker may offer Trial Services to you or offer certain product features, APIs, or other components of the Service to you as part of an “Early Access Program” (the “Early Access Products”). Your use of Trial Services is subject to any additional terms specified by Docker and is only permitted during the limited period we designate (or, if not designated, until terminated in accordance with this Agreement). Docker may modify or terminate your right to use Trial Services at any time and for any reason in its sole discretion. You understand that Early Access Products are under active development, may be inoperable or incomplete, and are likely to contain more errors and bugs than the generally available features of the Service. Docker makes no representations as to the performance of such Early Access Products nor promises that any Early Access Products will ever be made generally available. All information regarding the features or performance of any Early Access Products is deemed Docker Confidential Information. To the maximum extent permitted by applicable law, Docker disclaims all obligations and liabilities with respect to Trial Services, including but not limited to any Support, warranty, and indemnity obligations. THE TRIAL SERVICES ARE PROVIDED ON AN “AS-IS” BASIS. NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT, DOCKER’S MAXIMUM AGGREGATE LIABILITY TO YOU FOR SUCH TRIAL SERVICES SHALL NOT EXCEED THE FEES PAID BY CUSTOMER FOR SUCH TRIAL SERVICES.

### 3. **Subscription Term; Payment.**

3.1 The length of the Subscription Term. The Subscription Term will automatically renew for additional 12-month periods unless a party provides at least 30 days’ written notice prior to the end of the then-current Subscription Term that such party does not wish to renew for the upcoming term. In the case of non-renewal by Customer, a notice as found at <https://www.docker.com/static/Docker-Notice-of-Non-Renewal.pdf>, must be signed and emailed to [sales@docker.com](mailto:sales@docker.com) no less than 30 days prior to the end of the then-current Subscription Term. Upon renewal, Customer shall pay the subscription Fees set forth in the applicable renewal Order Form, or invoice, as applicable. All payment inquiries should be directed to [receivables@docker.com](mailto:receivables@docker.com).

3.2 For an Offering purchased or otherwise facilitated through our sales team, pricing and other relevant terms will be set forth in the applicable Order Form. Unless stated specifically otherwise on the Order Form, all payments to Docker including for invoiced On-Demand Usage, are due within 30 days of the invoice from Docker to you. Late payments will bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less). In addition to any of Docker’s other rights or remedies, Docker reserves the right to disable or suspend Customer’s and its User’s access to the Service for any failure by Customer to pay due invoices in accordance herein. All payment inquiries should be directed to [receivables@docker.com](mailto:receivables@docker.com).

3.3 Customer may purchase additional Entitlements as made available by Docker.

3.4 For Customer’s purchase of the Services is through a Marketplace or through a Reseller, Customer agrees to pay all fees according to the standard Docker price list found

at each Marketplace or Reseller price, including all applicable charges specified for the Service (including any charges for use in excess of authorizations). The Docker price list is exclusive of any customs or other duty, tax, and similar levies imposed by any authority. Customer understands it will pay the applicable Marketplace or Reseller in lieu of paying Docker directly. Customer's acceptance of the Marketplace or Reseller pricing and terms and conditions shall bind Customer to the obligations of this Agreement and any applicable Order Form. If Customer purchases through a Marketplace or Reseller, Customer will be responsible for full payment of the fees for the Subscription Term, regardless of usage, payment or billing terms between Customer and the Marketplace or Reseller.

**3.5** Except as otherwise expressly set forth in this Agreement, all payments by Customer hereunder are non-refundable and shall be made free and clear of and without reduction for all applicable withholding, sales or use, goods and services, value-added, consumption or other similar fees or taxes imposed by any government (other than taxes on the net income of Docker), which shall be paid by Customer. Accordingly, if Customer is required to withhold any taxes on the amounts payable to Docker hereunder, Customer shall pay Docker such additional amounts as are necessary to ensure receipt by Docker of the full amount that Docker would have received but for the deduction on account of such withholding. Customer shall provide Docker with official receipts issued by the appropriate governmental agency, or such other evidence as is reasonably requested by Docker to establish that such taxes have been paid. Where applicable law requires Customer to self-assess or reverse-charge any taxes, you shall be responsible for complying with such law. In such a case, Customer undertakes to provide Docker with its valid VAT registration number that is relevant to the Service provided under the terms of this Agreement. The amounts of any taxes required to be paid by Docker will be added to Docker's invoice, and Customer shall promptly remit such amounts to Docker, as the collection agent, upon invoice. Docker reserves the right to disable Customer's access to the Service for any failure to pay or any late payment.

#### **4. License Limitations; Use Restrictions.**

##### **4.1 General License Limitations.**

(a) Customer's license to use the Service may subject to certain general restrictions and limitations depending on the Offering Customer has chosen, including but not limited to quantity of data stored, age of data stored, pull rate (defined as the number of requests per hour to download data from Docker Hub), the number of image autobuilds or the number of collaborators on an account, as set forth on the applicable Order Form or Documentation. Personal Offerings are limited to: (i) use by an individual developer for personal use to develop Open Source Software or free applications as further restricted under this SSA, and (ii) use by members of an educational organization enrolled in a classroom learning environment solely for academic or research in not for-profit projects, or contributions to Open Source Software. Docker reserves the right to determine whether any use under the Personal Offering is allowed.

(b) Customer agrees that it is responsible for Customer's and its Users' conduct while accessing or using the Service and for any consequences thereof. Customer agrees to use the Service only for purposes that are legal, proper, and in accordance with this Agreement, the Order Form, and any applicable laws or regulations.

(c) Customer and its Users shall not, and shall not encourage any third party to: (i) modify, adapt, alter, translate, or create derivative works of the Service; (ii) reverse-engineer, decompile, disassemble, or attempt to derive the source code for the Service, in whole or in part, except to the extent that such activities are permitted under applicable law; (iii) distribute, license, sublicense, lease, rent, loan, or otherwise transfer the Service to any third party; (iv) remove, alter, or obscure in any way the proprietary rights notices (including copyright, patent, and trademark notices and symbols) of Docker or its licensors or suppliers contained on or within any copies of the Service; (v) use the Service for the purpose of creating a product or service competitive with the Service; (vi) remove, minimize, block or modify any notices of Docker or its licensors or suppliers in the Service; or (vii) use the Service other than as described in the applicable Documentation or for any unlawful purpose. Customer acknowledges that while Customer is permitted to use Docker Desktop on a virtual machine, as of the Effective Date of this Agreement, such use is an unsupported configuration.

(d) The Service may include an image vulnerability scanning feature that will scan the images that Customer specifies, which may be based upon code Customer authored or code of others, and may generate vulnerability reports or other information for Customer. The data that supports this feature may be provided by a third party and Customer agrees and understands that any reports or other information that Customer receives from Docker (directly or indirectly) about possible vulnerabilities are not guaranteed to be comprehensive, and there can be no assurance that every fault or vulnerability is discovered in a particular image. Customer agrees that the Service should not be used as the basis to deploy systems that must be hardened or highly secure, or involve mission-critical business operations, the operation of nuclear facilities, aircraft navigation, important communication systems, medical devices, air traffic control devices, real time control systems or other situations in which an inaccuracy or error in a report or in the service could lead to death, personal injury, or physical property or environmental damage.

#### **4.2 Specific License Limitations for Standalone use of Docker Desktop.**

(a) The use of Docker Desktop without a paid Subscription, is further restricted (i) to your use for a non-commercial open source project and/or (ii) use in a commercial undertaking with fewer than 250 employees and less than US \$10,000,000 (or equivalent local currency) in annual revenue. Government Entities shall not use Docker Desktop or access other Entitlements of the Service without purchasing a Subscription.

**4.3 Use Restrictions.** Customer and its Users may not and may not allow any third party to:

1. Send, upload, distribute, or disseminate or offer to do the same with respect to any

- defamatory, harassing, abusive, fraudulent, obscene or otherwise objectionable content;
2. Distribute malware, viruses, worms, defects, Trojan horses, corrupted files, hoaxes, or any other items of a destructive or deceptive nature;
  3. Impersonate another person (via the use of an email address or otherwise) or otherwise misrepresent yourself or the source of any content;
  4. Upload, post, transmit or otherwise make available through the Service any content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any third party;
  5. Upload, post, transmit or otherwise make available through images any Personally Identifiable Information (PII), trade secrets or sensitive or confidential information in violation of contractual, professional or other similar obligations. This includes tokens, keys and credentials;
  6. Utilize secrets such as tokens, keys, credentials and other sensitive data in Docker command lines, other Docker coding tools, and builds launched to Docker Build Cloud;
  7. Download any content posted by another user that you know, or reasonably should know, that cannot be legally distributed in such a manner;
  8. Submit content that falsely expresses or implies that such content is sponsored or endorsed by Docker;
  9. Interfere with other users' enjoyment of the Service;
  10. Access the Service for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Services or exploit the Service for any unauthorized commercial purpose, including without limitation mirroring or replicating content for a commercial service;
  11. Modify, adapt, translate, or reverse engineer any portion of the Service, unless authorized by Docker;
  12. Remove any copyright, trademark or other proprietary rights notices contained in or on the Service or any content posted thereon;
  13. Reformat or frame any portion of the web pages that are part of the Service's administration display;
  14. Use the Service in connection with illegal peer-to-peer file sharing;
  15. Display any content on the Service that contains any hate related or violent content or contains any other material, products, or services that violate or encourage conduct that would violate applicable laws;
  16. Use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the Service or the content posted thereon or to collect information about its users for any unauthorized purpose;
  17. Create user accounts under fraudulent pretenses;
  18. Use a service account or a Docker account created under a personal or other email domain not authorized by the Customer pursuant to this Agreement and an applicable Order Form;

19. Use no-Fee accounts to provide any services to your employer and/or any commercial entity or receive such services.
20. Use the Service, or any interfaces provided with the Service, to access any Docker product or service in a manner that violates this Agreement;
21. Mine cryptocurrency using computing resources of the Service or any other Docker computing resources; or load cryptocurrency mining code, scripts or malware into any Service or any other Docker computing resources;
22. Transfer excessive amounts of data while using the Service. If Docker determines that Customer's bandwidth usage is significantly higher compared to other users of similar features, it may result in potential throttling or On-Demand Usage charges; or
23. Consume excessive amounts of public data storage when using the Service. Docker may suspend Customer's or a User's access to and/or account for the Service, or remove, disable, or delete any Customer Data if Docker reasonably believes there has been a violation of this Section 4.3. Docker agrees to provide Customer with reasonable notice of any such suspension disablement, or deletion before its implementation unless immediate suspension, disablement, or deletion is necessary to comply with legal process, regulation, order, or prevent imminent harm to the Service or any third party, in which case Docker will notify Customer to the extent possible and/or allowed by applicable law. If Docker suspends Customer's right to access or use any portion of the Service, Customer remains responsible for all fees incurred prior to the suspension and Customer will not be entitled to any credit or refund.

#### 4.4 Usernames.

- (a) Docker reserves the right to reclaim usernames on behalf of businesses or individuals that hold legal claims or trademarks to those usernames. Users of business names and/or logos that may be considered misleading to others may be permanently suspended. Docker also reserves the right to reclaim usernames using Docker trademarks or usernames that violate our trademark guidelines, available at <https://www.docker.com/legal/trademark-guidelines/>, which are hereby incorporated into this Agreement by reference.
- (b) Customer and its Users shall not engage in username squatting. Users with an account that is inactive for more than 6 months may be terminated at Docker's discretion and without further notice. Docker takes into account several factors when determining what conduct is considered to be username squatting including, without limitation: (i) the number of accounts created; (ii) creating accounts for the purpose of preventing others from using those account names; and (iii) creating accounts for the purpose of selling those accounts. Customer and its Users shall not buy or sell usernames.

#### 5. Customer Data.

Docker acknowledges that, as between Docker and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to Customer

Data. Customer hereby grants to Docker a non-exclusive, royalty-free, worldwide license to

reproduce, distribute, and otherwise use and display the Customer Data solely as may be necessary for Docker to provide the Service including updates and upgrades thereto. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and completeness of all Customer Data. In the event Customer Data includes any personal information, Docker will process such information in accordance with its Data Processing Agreement. Docker may delete Customer's usage history and data files older than 12 months or within 90 days of the termination of this Agreement.

**6. AI Features.**

Customer's use of AI Features where available, will be solely at Customer's discretion. The Service may be used without enabling the AI Features except as otherwise specified in the Documentation. Docker will not use Customer's Data to train artificial intelligence models without the Customer's express consent at the Administrator-level of authority.

**7. Open Source Software.**

Any part of the Service that contains or utilizes Open Source Software is distributed and made available under the terms of the open source license agreements referenced in the applicable distribution or the applicable help, notices, about or source files or Documentation. Copyrights and other proprietary rights to the Open Source Software are held by the copyright holders identified in the applicable distribution or the applicable help, notices, about or source files or Documentation. The Service shall not include any code licensed under any "viral" or "copyleft" license.

**8. Records and Audit.**

Customer shall establish and maintain complete and accurate records related to Customer and its Users use of the Service, and any such other information as reasonably necessary for Docker to verify compliance with the terms of this Agreement and any applicable Order Form. Upon at least ten (10) days' prior notice to Customer, Docker or its representative may inspect such records to confirm Customer's compliance with the terms of this Agreement and any applicable Order Form. If Customer's records or Docker's Service records reveal that Customer or Customer's Users have exceeded their permitted use of the Service, Docker may invoice Customer for any past or ongoing underpaid amounts resulting from such excess use and Customer will promptly pay Docker such amounts upon receipt of invoice. This remedy is without prejudice to any other remedies available to Docker at law or equity or under this Agreement. To the extent Docker is obligated to do so, Docker may share audit results with certain of its third-party licensors or assign the audit rights specified herein to such licensors.

**9. Term and Termination.**

This Agreement commences on the Effective Date and will remain in effect until it is terminated in accordance with the terms herein. Either party may terminate this Agreement and any Order Form if the other party materially breaches the terms and conditions of this Agreement and fails to cure such breach within 30 days of receiving written notice thereof.

If there are no outstanding Order Forms, either party may terminate this Agreement upon at

least 30 days' prior written notice to the other party. Upon the expiration or termination of this Agreement or an applicable Order Form, the license to the Service will automatically terminate and Customer will discontinue all use of the Service. Sections 4.4, 5, 8, 10, 11, 13, and 15 shall survive any termination or expiration of this Agreement or any Order Form.

**10. Feedback.**

Upon submitting any Customer or User suggestions, proposals, ideas, recommendations, bug reports, ideas, improvements or other feedback regarding Docker's products and services ("**Feedback**"), Customer grants to Docker a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit feedback (including by incorporation of such feedback into the Docker Desktop, Docker Hub, the Service, and any other Docker services) without restriction. Feedback expressly excludes any Customer Confidential Information and Customer Data.

**11. Confidentiality.**

**11.1 Definition.** "**Confidential Information**" means any information disclosed by one party ("**Discloser**") to the other ("**Recipient**"), directly or indirectly, in writing, orally or by inspection of tangible objects, which is designated as "Confidential," "Proprietary" or some similar designation, or learned by Recipient under circumstances in which such information would reasonably be understood to be confidential.

**11.2 Exceptions.** The confidentiality obligations in this Section 11 shall not apply with respect to any information which Recipient can demonstrate: (a) was in the public domain at the time it was disclosed to Recipient or has become in the public domain through no act or omission of Recipient; (b) was known to Recipient, without restriction, at the time of disclosure as shown by the files of Recipient in existence at the time of disclosure; (c) was disclosed by Recipient with the prior written approval of Discloser; (d) was independently developed by Recipient without any use of Discloser's Confidential Information; or (e) became known to Recipient, without restriction, from a source other than Discloser without breach of this Agreement by Recipient and otherwise not knowingly in violation of Discloser's rights.

**11.3 Restrictions on Use and Disclosure.** Recipient agrees not to use Discloser's Confidential Information or disclose, distribute, or disseminate Discloser's Confidential Information except in furtherance of the performance of its obligations or enforcement of its rights hereunder or as otherwise expressly agreed by Discloser in writing. Recipient agrees to restrict access to such Confidential Information to those employees, agents, contractors, or consultants of Recipient who need to know such Confidential Information for performing as contemplated hereunder and are bound by confidentiality obligations no less protective than those contained in this Agreement. Recipient shall exercise the same degree of care to prevent unauthorized use or disclosure of Discloser's Confidential Information to others as it takes to preserve and safeguard its

own information of like importance, but in no event less than reasonable care.

**11.4 Compelled Disclosure.** If Recipient is compelled by a court or other competent authority or applicable law to disclose Confidential Information of Discloser, it shall, to the extent permitted by applicable law, give Discloser prompt written notice and shall provide Discloser with reasonable cooperation at Discloser's expense so that Discloser may take steps to oppose such disclosure or obtain a protective order. Recipient shall not be in breach of its obligations in this Section 11 if it makes any legally compelled disclosure provided that Recipient meets the foregoing notice and cooperation requirements.

**11.5 Injunctive Relief.** Recipient acknowledges that breach of the confidentiality obligations may cause irreparable harm to Discloser, the extent of which may be difficult to ascertain. Accordingly, Recipient agrees that Discloser may be entitled to seek immediate injunctive relief in the event of breach of an obligation of confidentiality by Recipient, and that Discloser shall not be required to post a bond or show irreparable harm in order to obtain such injunctive relief.

**11.6 Return of Confidential Information.** As between the parties, Confidential Information shall remain the property of the Discloser. At any time, upon Discloser's reasonable request, Recipient shall promptly (and in any event within 30 days) return to Discloser or delete, at the election of the Discloser, any Confidential Information of the Discloser in Recipient's possession. In addition, within 30 days after termination of this Agreement, Recipient shall (i) promptly return all tangible materials containing such Confidential Information to Discloser, (ii) remove all Confidential Information (and any copies thereof) from any computer systems of the Recipient and confirm in writing that all materials containing Confidential Information have been deleted or returned to Discloser, as applicable, by Recipient. Recipient shall cause its affiliates, agents, contractors, and employees to comply with the foregoing.

## 12. Security

Docker will maintain reasonable administrative, physical, and technical security measures consistent with applicable law that are intended to protect against the loss, misuse, unauthorized access, alteration or disclosure of Customer's Data or the Service. Such additional measures will include compliance with the Security and Privacy Guidelines available at <https://www.docker.com/trust/>. Docker shall notify Customer of any confirmed security breach as soon as reasonably possible thereafter but in any event within seventy-two (72) hours of a breach involving Customer Data.

## 13. Warranty Disclaimer.

**EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CUSTOMER UNDERSTANDS AND AGREES THAT USE OF THE SERVICE IS AT CUSTOMER'S SOLE RISK AND THAT THE SERVICE AND DOCUMENTATION IS PROVIDED "AS IS" AND "AS AVAILABLE." DOCKER, ITS SUBSIDIARIES, AND ITS AFFILIATES MAKE NO EXPRESS WARRANTIES AND DISCLAIM ALL IMPLIED WARRANTIES REGARDING THE SERVICE, INCLUDING IMPLIED WARRANTIES OF**

**MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, TOGETHER WITH ANY AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE IN TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM DOCKER OR ELSEWHERE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DOCKER AND ITS SUBSIDIARIES AND AFFILIATES DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (A) CUSTOMER'S USE OF THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, OR (B) CUSTOMER'S USE OF THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL EXCLUDE OR LIMIT DOCKER'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THE SERVICE IS NOT DESIGNED, INTENDED OR WARRANTED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. DOCKER DOES NOT WARRANT ANY THIRD PARTY PRODUCTS OR SERVICES.**

**14. Indemnification.**

**14.1 By Docker.** Subject to the limitation on liability set forth in Section 15, Docker shall defend at its own expense any legal action brought against you to the extent that it is based on a claim or allegation that the Service (excluding any Open Source Software) infringes a U.S. patent or copyright of a third party, and Docker will pay any costs and damages awarded against you in any such action, or agreed to under a settlement signed by Docker, that are attributable to any such claim but shall not be responsible for any compromise made or expense incurred without Docker's consent. Such defense and payments are subject to the conditions that you (a) give Docker prompt written notice of such claim, (b) tender to Docker sole control of the defense and settlement of the claim, and (c) reasonably cooperate with Docker when requested in connection with the defense and settlement of the claim.

**14.2 Limitation on Infringement Claims.** Docker will have no liability to you or any obligations under this Section 14 to the extent a claim arise out of:

(a) the modification of any portion of the Service by any party other than Docker or its authorized representatives; (b) the combination, operation, or use of any Service with other product(s), data, third party software, or services where the Service would not by itself be infringing (including, without limitation, Open Source Software); (c) the continued use of the allegedly infringing Service after being notified of the infringement claim or after being provided a modified version of the Service by Docker to address any alleged infringement;

or (d) the failure to use the Service in accordance with the applicable Documentation or outside the scope of the rights granted under this Agreement. Should the Service, or the operation thereof, become or in Docker's opinion be likely to become, the subject of such claim described in Section 14.1, Docker may, at its option and expense, (i) procure the right for Customer to continue using the Service, or (ii) replace or modify the Service so that it becomes non-infringing. If neither (i) or (ii) are reasonably practicable, Docker may terminate the applicable Order Form and refund to Customer any pre-paid, unused Fees paid by Customer corresponding to the unused period of the Subscription Term. **THIS SECTION 14 STATES DOCKER'S SOLE AND EXCLUSIVE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.**

14.3 By Customer. Customer shall defend and hold Docker and its affiliates, officers, directors, agents, and employees ("**Docker Indemnitees**") harmless against any third party claims and actions arising from (a) an allegation that Customer Data infringes the intellectual property rights of any third party, and (b) any use by Customer or its Users of the Service in violation of the license restrictions in Section 4.3 of this Agreement or violation of applicable laws, rules or regulations in connection with the Service, and shall indemnify the Docker Indemnitees against any damages, judgments, litigation costs including any reasonable attorneys' fees.

14.4 Procedure. The party seeking indemnification will notify the indemnifying party promptly of any claim or action covered by this Section 14. The parties agree to reasonably cooperate during such proceedings. The indemnifying party will have the right to defend any such claim and will have control over the litigation, negotiation, and settlement of any such claim, provided it will not make any settlement of a claim that results in any liability or imposes any obligation on the indemnified party without the prior written consent of such party, which will not be unreasonably withheld. The indemnified party may, at its sole expense, participate in the defense of any claim.

## 15. Limitation of Liability.

15.1 **Exclusion of Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT DOCKER, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL IN NO EVENT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, OR INTERRUPTION OF BUSINESS) ARISING FROM THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.**

15.2 **Liability Cap. THE TOTAL LIABILITY OF DOCKER ARISING OUT OF OR**

**RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE RELEVANT SERVICE UNDER THE APPLICABLE ORDER FORM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.**

**16. Export Restrictions.**

Customer understands that the Service is subject to United States export controls administered by the United States Department of Commerce and the United States Department of Treasury Office of Foreign Assets Control. Customer acknowledges and agrees that the Service may not be used, transferred or otherwise exported or re-exported to countries as to which the United States, maintains an embargo (collectively, “**Embargoed Countries**”), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Entity List, Denied Persons List, or Unverified List, or the U.S. Department of State’s Nonproliferation Sanctions list (collectively, “**Designated Nationals**”). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service, Customer represents and warrants that Customer is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Customer agrees to comply with all United States export laws and assumes sole responsibility for obtaining United States government export licenses to export or re-export as may be required. Customer will defend, indemnify, and hold Docker and its licensors harmless from and against any liabilities arising from Customer’s or any of its officers, directors, employees, agents, or representatives violation of such laws or regulations.

**17. U.S. Public Sector Users.**

Any U.S. Public Sector Customers are subject to the Public Sector SSA.

**18. Governing Law and Jurisdiction.**

The Agreement and all of its Order Forms will be governed as follows:

**For Docker Personal and any other no-fee Offering accounts:**

Governing law:	Courts with exclusive jurisdiction:
The laws of the State of California and controlling United States federal law.	The state and federal courts located within the county of Santa Clara, California. Any dispute, controversy or claim arising under, out of or relating to this Agreement, will be finally determined by arbitration conducted by JAMS (or, if unavailable, then such other similar group that can provide former judges as arbiters) in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable to commercial dispute by a single arbiter who is (a) fluent in written and spoken English, the language governing this Agreement, and (b) skilled and experienced with cloud or internet services. The place of such arbitration will be in Santa Clara County, California,

U.S.A. The judgment of the arbitrator will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the parties, and may be entered in any court of competent jurisdiction. The foregoing does not limit or restrict either party from seeking injunctive or other equitable relief from a court of competent jurisdiction.

**For all Offering accounts subject to a fee the Agreement will be governed as follows based on the Customer’s place of domicile:**

Customer’s domicile:	Governing law:	Courts with exclusive jurisdiction:
In the Americas, Asia Pacific, India, Israel and any other region other than as specified below.	The laws of the State of California and controlling United States federal law.	The state and federal courts located within the county of Santa Clara, California. Any dispute, controversy or claim arising under, out of or relating to this Agreement, will be finally determined by arbitration conducted by JAMS (or, if unavailable, then such other similar group that can provide former judges as arbiters) in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable to commercial disputes by a single arbiter who is (a) fluent in written and spoken English, the language governing this Agreement, and (b) skilled and experienced with cloud or internet services. The place of such arbitration will be in Santa Clara County, California U.S.A. The judgment of the arbitrator will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the parties, and may be entered in any court of competent jurisdiction. The foregoing does not limit or restrict either party from seeking injunctive or other equitable relief from a court of competent jurisdiction.
In the European Union, the European Economic Area, Switzerland, Africa or the Middle East (other than Israel).	The laws of the Netherlands.	The courts of Utrecht, albeit not until the parties have pursued the IT Mediation Regulations of the Stichting Geschillenoplossing Automatisering (SGOA) in The Hague. The parties agree to participate in the mediation in good faith, and to share its costs equally.
In the United Kingdom.	The laws of England and Wales.	Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the

arbitral proceedings shall be English.

The parties agree that the Uniform Computer Information Transactions Act and the United Nations Convention on the International Sale of Goods will not apply to this Agreement.

#### **19. Miscellaneous.**

**19.1 Assignment.** Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld), provided that Docker may assign this Agreement, without Customer's consent, to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

**19.2 Legal Notices.** Any notices hereunder must be in writing. Docker may provide notice to Customer through Customer's signup email address, the address provided in the applicable Order Form, customer's account or in-product notifications. Customer agrees that any electronic communication will satisfy any applicable legal communication requirements, including that such communications be in writing. Any notice to Customer will be deemed given upon the first business day after Docker sends it. You will provide notice to us by mail to: Docker, Inc. **3790 El Camino Real Ste. 1052 Palo Alto, CA, 94306-3314**, Attn: Legal Department, with an email copy to [Legal@docker.com](mailto:Legal@docker.com).

**19.3 Changes to the Terms.** Docker may modify these terms from time to time, with notice to Customer in accordance with Section 19.2 (Legal Notices) or by posting the modified terms on our website. Together with notice, we will specify the effective date of the modifications.

**19.4 Contractual Relationship.** The parties are independent contractors. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties.

**19.5 Integration and Order of Precedence.** This Agreement, including all Order Forms, constitutes the entire agreement between Customer and Docker concerning the subject matter of this Agreement and it supersedes all prior and simultaneous proposals, agreements, understandings, or other communications between the parties, oral or written, regarding such subject matter. The terms of an Order Form will prevail over the general terms herein only if such Order Form expressly references this Agreement, the intent to prevail over this Agreement, and is authorized by both Docker and Customer. Section headings are for convenience only and shall not affect interpretation of the relevant section. No provision of any purchase order or other form employed or provided by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will continue in full force and effect.

**19.6 Force Majeure.** Except for the inability to meet financial obligations, neither party will be liable for failures or delays in performance due to causes beyond its reasonable control, including, but not limited to, any act of God, fire, earthquake, flood, storm, natural disaster, computer-related attacks, hacking, internet service provider failures or delays, accident, pandemic, labor unrest, civil disobedience, act of terrorism or act of government (each a “Force Majeure Event”). The parties agree to use their best efforts to minimize the effects of such failures or delays. For the avoidance of doubt, Customer understands that the Service may not be provided in countries listed in the Office of Foreign Assets Control sanction list and Customer’s access to the Service may be restricted in such countries. Such prohibitions shall not constitute a Force Majeure.

**19.7 Non-waiver.** No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

**19.8 Third-party Beneficiaries.** Nothing in this Agreement shall confer, or is intended to confer, on any third party any benefit or the right to enforce any term of this Agreement.