



Crown
Commercial
Service

Digital Outcomes and Specialists 5 (RM1043.7)

Framework Schedule 6 (Order Form)

Version 2

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SR1064389865 - Debt Management IT Delivery: IT Delivery Partner

Framework Schedule 6 (Order Form Template, Statement of Work Template and Call-Off Schedules)

Order Form

Call-Off Reference: SR1064389865

Call-Off Title: Debt Management IT Delivery: IT Delivery Partner

Call-Off Contract Description:

The Debt Management Portfolio contains Programmes of work that are a mixture of legislative and HM Treasury funded. The Programmes include transformation and replacement of legacy Debt Management services (IDMS), transformed Time to Pay services and new legislative requirements for Debt Respite in the form of the Statutory Debt Repayment Plan (SDRP) being introduced in England and Wales in Aug 2024. The Programmes are part of the Transformation Payment and Debt Programme. This represents a Programme of work up to 2025. Listed below are some of the activities expected to be required:

- Replace legacy Debt Management system where change is time consuming and costly
- Reduce manual processing within the Debt Respite service by increased automation via IT development to pave the way for the SDRP
- Develop an IT solution that will support SDRP (a legislated debt repayment plan to help those in problem debt) being introduced in August 2024
- Develop IT payment services that will transform the payment experience making it easier for customers to pay, supporting customers who are in financial difficulty, and taking action with those avoiding payment.

The Debt Management Programme requires continued support, against a set of defined service-based delivery outcomes, up to 2024/25, that cover, but are not limited to, the provision of the following IT skills & capabilities:

- Analysis services
- Delivery Architecture services
- Delivery Management services
- Integration Management services

The Buyer (also referred to as the "Authority"):

HM Revenue and Customs (HMRC)

[REDACTED]

The Supplier:

Capgemini UK plc

[REDACTED]

Registration Number: [REDACTED]

Applicable Framework Contract

This Order Form is for the provision of the Call-Off Deliverables and dated as per contract signature date.

It's issued under the Framework Contract with the reference number RM1043.7 for the provision of Digital Outcomes.

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

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

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

Call-Off Lot 1: Digital Outcomes

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, including agreed Statements of Work.
- 2 Joint Schedule 1 (Definitions)
- 3 Framework Special Terms
- 4 The following Schedules in equal order of precedence:
 - Joint Schedules for RM1043.7
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - Joint Schedule 10 (Rectification Plan)
 - Joint Schedule 11 (Processing Data)

- Call-Off Schedules for RM1043.7
 - Call-Off Schedule 1 (Transparency Reports)
 - Call-Off Schedule 2 (Staff Transfer)
 - Call-Off Schedule 5 (Pricing Details and Expenses Policy)
 - Call-Off Schedule 6 (Intellectual Property Rights and Additional Terms on Digital Deliverables)
 - Call-Off Schedule 9 (Security) Part A only
 - Call-Off Schedule 10 (Exit Management)
 - Call-Off Schedule 14 (Service Levels and Balanced Scorecard) – Part 2 of Call-Off Schedule 14 not used at Effective Date (and is subject to agreement between Buyer and Supplier)
 - Call-Off Schedule 15 (Call-Off Contract Management)
 - Call-Off Schedule 20 (Call-Off Specification)
 - Call-Off Schedule 26 (Cyber Essentials Scheme)
- 5 CCS Core Terms (version 3.0.9)
- 6 Joint Schedule 5 (Corporate Social Responsibility)
- 7 Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

Call-Off Special Terms

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

Special Terms 1:

Call-Off Special Schedule 1 (HMRC Mandatory Terms)

[REDACTED]

Call-Off Term

Call-Off Start Date: 12 December 2022

Call-Off Expiry Date: 11 December 2024

Call-Off Initial Period: 24 calendar months

Call-Off Optional Extension Period: 6 Months

Minimum Notice Period for Extensions: 30 days

Call-Off Contract Value: Up to a maximum of £9,000,000 total excluding extensions.

Call-Off Deliverables

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

Buyer's Standards

From the Start Date of this Call-Off Contract, the Supplier shall comply with the relevant (and current as of the Call-Off Start Date) Standards referred to in Framework Schedule 1 (Specification). The Buyer requires the Supplier to comply with the following additional Standards for this Call-Off Contract:

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

Cyber Essentials Scheme

The Buyer requires the Supplier, in accordance with Call-Off Schedule 26 (Cyber Essentials Scheme) to provide a Cyber Essentials Certificate prior to commencing the provision of any Deliverable under this Call-Off Contract.

Buyer Certification:

[REDACTED]
[REDACTED]

Maximum Liability

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

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is £[REDACTED] total.

Call-Off Charges

Refer to DOS5 core terms Framework schedules, Framework Schedule 3 (Framework Prices).

- 1 Capped Time & Materials (CTM) – **Not Applicable**
- 2 Incremental Fixed Price – **Not Applicable**
- 3 Time & Materials (T&M) - only to be used by prior agreement of the Parties in occasional circumstances, for example, Discovery work activities leading to the development of a Fixed Price SOW
- 4 Fixed Price
- 5 A combination of two or more of the above Charging methods

Inclusive of:

1. Operating hours are a standard 37-hour week, which excludes lunch or any other breaks. HMRC's standard operating hours are between 7am and 8pm, Monday to Saturday. Capgemini's standard "Working Day" is 9am to 5.30pm Monday to Friday excluding England Bank Holidays.
2. Excluding England Bank Holidays
3. All out of hours working must be approved by the Authority with 48-hours' notice prior to commencing.

Reimbursable Expenses

See Expenses Policy in Annex 1 to Call-Off Schedule 5 (Pricing Details and Expenses Policy)

Payment Method

As per payment provisions contained within each SOW.

Buyer's Invoice Address

Payments will be directed via HMRC SAP Ariba Network.

Buyer's Environmental Policy

Not Applicable

Buyer's Security Policy

Appended at Call-Off Schedule 9 (Security)

Supplier's Authorised Representative

[REDACTED]

Supplier's Contract Manager

[REDACTED]

Progress Report Frequency

Frequency to be agreed at Mobilisation Meeting.

Progress Meeting Frequency

Dates to be agreed at Mobilisation Meeting.

Key Staff

Not applicable.

Key Subcontractor(s)

Not Applicable

Commercially Sensitive Information

See Joint Schedule 4 – Commercially Sensitive Information

Balanced Scorecard

See Call-Off Schedule 14 (Service Levels and Balanced Scorecard)

Response Times

The following response times shall apply to this Call-Off Contract:

- A. Authority SOW response
 - a. Each released Authority SOW that includes complete functional and non-functional requirements to be fully costed and submitted, by the Supplier, to the Authority's designated point of contact on or before 17:00 hours on the 15th working day from the date the same SOW is received by the Supplier.
 - b. Non-Compliance to this by written exception only and approved by Authority's designated point of contact.
 - c. The Authority shall advise the Supplier of acceptance of the SOW within 2 Working Days.
- B. SOW work commencement
 - a. The Supplier's team/resource to commence working on the deliverables set out in each SOW only following receipt from HMRC of the signed SOW and associated PO and then from the date(s) agreed in the SOW. Where the signed SOW or PO has not been received prior to the date(s) agreed in the SOW, a SOW amendment will be required to agree a revised starting date and any subsequent impacts on the delivery solution.
 - b. Non-Compliance to this by written exception only and approved by Authority's designated point of contact.

KPIs

The following KPIs shall apply to this Call-Off Contract in accordance with Call-Off Schedule 14 (Service Levels and Balanced Scorecard):

KPIs	Target	Measured by
A. KPI: Invoice Performance Process The agreed Invoice process is: <ul style="list-style-type: none">•each invoice to have appropriate purchase order numbers (which will be provided by the Buyer as part of agreeing a Statement of Work within 5 working days)•accurate and complete invoices presented in a timely manner	100% of all inputs required for a valid invoice	All of the inputs against each invoice are submitted in accordance with the Invoice Performance Process timescales and contain accurate and complete information
Source	• Supplier Reports/Invoices	
Owner	• To be agreed with Buyer and Supplier nominees	
B. KPI: Partnering behaviours and added value		

<p>Buyer experience:</p> <p>A measure of the average surveyed score [REDACTED] for the assessment of Supplier performance against the Call-off Contract.</p> <p>Buyer to ensure only HMRC staff take part in [REDACTED] survey and both Parties (Buyer to reasonably agree the format of the [REDACTED] survey).</p>	<p>Captured as part of twice yearly Annual meeting metrics.</p> <p>Buyer to ensure only HMRC staff take part in [REDACTED] survey and both Parties to agree the format of the survey.</p>	<p>Compliance to Authority Behaviour Standards Policy.</p>
Source	<ul style="list-style-type: none"> Feedback on Supplier from Buyer 	
Owner	<ul style="list-style-type: none"> To be agreed with Buyer and Supplier nominees 	
<p>C. KPI: SOW responsiveness (Delivery)</p> <p>The Supplier will provide a response to Buyer requests for an impact to standard* Statement of Work within 15 Working Days unless a longer/shorter timescale is otherwise agreed.</p> <p>*A standard SOW is defined as a statement of work where full Functional and Non-functional requirements are provided and where the requirement specification falls within the scope of the Call off Contract.</p>	<p>Captured as part of monthly meeting metrics.</p>	<p>In accordance with Response Times outlined above</p>
Source	<ul style="list-style-type: none"> Feedback on Supplier from Buyer. 	
Owner	<ul style="list-style-type: none"> To be agreed with Buyer and Supplier nominees 	

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).

The Supplier agrees to report progress to the Authority, against the Supplier's commitment to Social Value as outlined in their Social Value Response submitted as part of their bid for this call-off further competition. Refer to DOS5 Call-Off Schedules – Call-Off Schedule 4 (Call Off Tender) and as captured below.

The following Debt Management contract commitments are based on the full predicted contract value.

Social Value Commitments	Target	Measured by
A: Tackling Economic Inequality – Policy Outcome: New Businesses, New Jobs and New Skills In accordance with Call-Off Schedule 4 (Call-Off Tender) measurement against the 4 commitment levels that will underpin delivery of incremental social value for this contract: Commitment-1: Commitment-2: Commitment-3: Commitment-4: 	100% of all commitments in the contractual period. 	
Source	<ul style="list-style-type: none"> Supplier Reports / Tracking 	
Owner	<ul style="list-style-type: none"> Supplier SVDM & Buyer Contract Manager 	
Social Value Commitments	Target	Measured by
B: Equal Opportunity – Policy Outcome: Tackle Workforce Inequality In accordance with Call-Off Schedule 4 (Call-Off Tender) measurement against the 5 commitment levels that will underpin delivery of incremental social value for this contract: Commitment-1: 	100% of all commitments in the contract period. 	

[REDACTED]	[REDACTED]	[REDACTED]
Commitment-2:	[REDACTED]	[REDACTED]
Commitment-3:	[REDACTED]	[REDACTED]
Commitment-4:	[REDACTED]	[REDACTED]
Commitment-5:	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
Source	<ul style="list-style-type: none"> • Supplier Reports / Tracking 	
Owner	<ul style="list-style-type: none"> • Supplier SVDM & Buyer Contract Manager 	

Fig 1 – Social Value Commitment 1 - Supplier Timed Action Plan.

[REDACTED]

Fig 2 – Social Value Commitment 1 - Supplier Alignment to HMRC Commitments.

[REDACTED]

Fig 3 – Social Value Commitment 2 - Supplier Timed Action Plan.

[REDACTED]

Fig 4 – Social Value Commitment 2 - Supplier Alignment to HMRC Commitments.



Statements of Work

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

For and on behalf of the Supplier:

SIGNED:	
FULL NAME:	
POSITION:	
COMPANY:	
DATE OF SIGNATURE:	

For and on behalf of the Buyer:

SIGNED:	
FULL NAME:	
POSITION:	
COMPANY:	
DATE OF SIGNATURE:	

Appendix 1

Statement of Work

The Buyer and Supplier shall complete and execute Statements of Work in the form of the Buyer's template Statement of Work set out below.

Upon execution, each SOW forms part of the Call-Off Contract.

The Parties will execute a SOW for each set of Buyer Deliverables required. Any ad-hoc Deliverables requirements are to be treated as individual requirements in their own right and the Parties should execute a separate SOW in respect of each, or alternatively agree a SOW amendment to an existing SOW. The format and contents of the SOW template shall be updated by the Parties from time to time.

All SOWs must fall within the Specification and provisions of the Call-Off Contract.

The details set out within each SOW apply only in relation to the Deliverables detailed therein and will not apply to any other SOWs executed or to be executed under this Call-Off Contract, unless otherwise agreed by the Parties in writing.

Data Processing

Prior to the execution of each Statement of Work, the Parties shall review Annex 1 of Joint Schedule 11 (Processing Data) and if the contents do not adequately cover the Processor / Controller arrangements, the specific arrangements will be agreed by the Parties as part of agreeing each Statement of Work.

Annex 1 (Template Statement of Work)

1. Statement of Work (SOW) Template



Call Off Special Schedule 1 – HMRC Mandatory Terms



HM Revenue
& Customs

AUTHORITY'S MANDATORY TERMS

- A. For the avoidance of doubt, references to 'the Agreement' mean the attached Call-Off Contract between the Supplier and the Authority. References to 'the Authority' mean 'the Buyer' (the Commissioners for Her Majesty's Revenue and Customs).
- B. The Agreement incorporates the Authority's mandatory terms set out in this **Special Schedule 1**.
- C. In case of any ambiguity or conflict, the Authority's mandatory terms in this **Special Schedule 1** will supersede any other terms in the Agreement.

1. Definitions

"Affiliate"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Authority Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Authority; and/or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Authority is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified;</p>
"Charges"	the charges for the Services as specified in agreed SOWs ;
"Connected Company"	means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person;
"Control"	the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "Controls" and "Controlled" shall be interpreted accordingly;

“Controller”, “Processor”, “Data Subject”, “Data Protection Legislation”	take the meaning given in the GDPR; (a) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (b) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (c) all applicable Law about the processing of personal data and privacy;
“GDPR” “Key Subcontractor”	the General Data Protection Regulation (Regulation (EU) 2016/679); any Subcontractor: (a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract;
“Law”	any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Personal Data” “Purchase Order Number” “Services”	has the meaning given in the GDPR; the Authority’s unique number relating to the supply of the Services; the services to be supplied by the Supplier to the Authority under the Agreement, including the provision of any Goods;
“Subcontract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
“Subcontractor”	any third party with whom: (a) the Supplier enters into a Subcontract; or (b) a third party under (a) above enters into a Subcontract, or the servants or agents of that third party;
“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;

**“Supporting Documentation”
“Tax”**

sufficient information in writing to enable the Authority to reasonably verify the accuracy of any invoice;

- (a) all forms of tax whether direct or indirect;
- (b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;
- (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
- (d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,

in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;

“Tax Non-Compliance”

where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where:

- (a) the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause **Error! Reference source not found.**; and
- (b) any “Essential Subcontractor” means any Key Subcontractor;

“VAT”

value added tax as provided for in the Value Added Tax Act 1994.

2. Payment and Recovery of Sums Due

2.1 The Supplier shall invoice the Authority as specified in accordance with SOWs agreed under the Agreement. Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Supplier shall procure a Purchase Order Number from the Authority prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:

2.1.1 the Supplier does so at its own risk; and

2.1.2 the Authority shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.

2.2 Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Authority from time to time, either:

2.2.1 via the Authority’s electronic transaction system; or

2.2.2 as directed by the Authority (or such other person notified to the Supplier in writing by the Authority) by email in pdf format or, if agreed with the Authority, in hard copy by post.

2.3 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Authority. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.

3. Warranties

3.1 The Supplier represents and warrants that:

- 3.1.1 in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;
- 3.1.2 it has notified the Authority in writing of any Tax Non-Compliance it is involved in; and
- 3.1.3 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue and the Supplier has notified the Authority of any profit warnings issued in respect of the Supplier in the three years prior to the Effective Date.

3.2 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause **Error! Reference source not found.**, **Error! Reference source not found.** and/or **Error! Reference source not found.** has been breached, is untrue, or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.

3.3 In the event that the warranty given by the Supplier pursuant to Clause **Error! Reference source not found.** is materially untrue, the Authority shall be entitled to terminate the Agreement pursuant to the Call-Off clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

4. Promoting Tax Compliance

4.1 All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.

4.2 To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.

4.3 The Supplier shall provide to the Authority the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any agent, supplier or Subcontractor of the Supplier prior to the provision of any material Services under the Agreement by that agent, supplier or Subcontractor. Upon a request by the Authority, the Supplier shall not contract, or will cease to contract, with any agent, supplier or Subcontractor supplying Services under the Agreement.

4.4 If, at any point during the Term, there is Tax Non-Compliance, the Supplier shall:

- 4.4.1 notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
- 4.4.2 promptly provide to the Authority:
 - (a) details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Tax Non-Compliance as the Authority may reasonably require.

4.5 The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed

on the Authority at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause **Error! Reference source not found.** shall be paid in cleared funds by the Supplier to the Authority not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Authority.

4.6 Upon the Authority's request, the Supplier shall provide (promptly or within such other period notified by the Authority) information which demonstrates how the Supplier complies with its Tax obligations.

4.7 If the Supplier:

4.7.1 fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with Clauses **Error! Reference source not found.**, **Error! Reference source not found.** and/or **Error! Reference source not found.** this may be a material breach of the Agreement;

4.7.2 fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Authority that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause **Error! Reference source not found.** on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or

4.7.3 fails to provide details of steps being taken and mitigating factors pursuant to Clause **Error! Reference source not found.** which in the reasonable opinion of the Authority are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Authority to terminate the Agreement pursuant to the Call-Off Clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

4.8 The Authority may internally share any information which it receives under Clauses **Error! Reference source not found.** to **Error! Reference source not found.** (inclusive) and **Error! Reference source not found.**, for the purpose of the collection and management of revenue for which the Authority is responsible.

5. Use of Off-shore Tax Structures

5.1 Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Authority) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Authority under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract ("**Prohibited Transactions**"). Prohibited Transactions shall not include transactions made between the Supplier and its

Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties' business.

- 5.2** The Supplier shall notify the Authority in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier shall notify the Authority within a reasonable time to allow the Authority to consider the proposed Prohibited Transaction before it is due to be put in place.
- 5.3** In the event of a Prohibited Transaction being entered into in breach of Clause **Error! Reference source not found.** above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Authority and, in order to ensure future compliance with the requirements of Clauses **Error! Reference source not found.** and **Error! Reference source not found.**, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Authority) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.
- 5.4** Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses **Error! Reference source not found.** and **Error! Reference source not found.** shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

6 Data Protection and off-shoring

- 6.1** The Processor shall, in relation to any Personal Data processed in connection with its obligations under the Agreement:
- 6.1.1** not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) 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
 - (d) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 6.2** Failure by the Processor to comply with the obligations set out in Clause **Error! Reference source not found.** shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

7 Commissioners for Revenue and Customs Act 2005 and related Legislation

- 7.1** The Supplier shall comply with, and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') to maintain the confidentiality of Authority Data. Further, the Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.
- 7.2** The Supplier shall comply with, and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the Supplier's obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
- 7.3** The Supplier shall regularly (not less than once every six (6) months) remind all Supplier Personnel who will have access to, or are provided with, Authority Data in writing of the obligations upon Supplier Personnel set out in Clause **Error! Reference source not found.** above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.
- 7.4** The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data sign (or have previously signed) a Confidentiality Declaration, in the form provided at Annex 2. The Supplier shall provide a copy of each such signed declaration to the Authority upon demand.
- 7.5** In the event that the Supplier or the Supplier Personnel fail to comply with this Clause **Error! Reference source not found.**, the Authority reserves the right to terminate the Agreement with immediate effect pursuant to the clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

Annex 1

Excerpt from HMRC's "Test for Tax Non-Compliance"

Condition one (An in-scope entity or person)

1. There is a person or entity which is either: ("X")
 - 1) The Economic Operator or Essential Subcontractor (EOS)
 - 2) Part of the same Group of companies of EOS. An entity will be treated as within the same Group of EOS where that entities' financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts*¹;
 - 3) Any director, shareholder or other person (P) which exercises control over EOS. 'Control' means P can secure, through holding of shares or powers under articles of association or other document that EOS's affairs are conducted in accordance with P's wishes.

Condition two (Arrangements involving evasion, abuse or tax avoidance)

2. X has been engaged in one or more of the following:
 - a. Fraudulent evasion²;
 - b. Conduct caught by the General Anti-Abuse Rule³;
 - c. Conduct caught by the Halifax Abuse principle⁴;
 - d. Entered into arrangements caught by a DOTAS or VADR scheme⁵;
 - e. Conduct caught by a recognised 'anti-avoidance rule'⁶ being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not effected for commercial purposes. 'Targeted Anti-Avoidance Rules' (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;
 - f. Entered into an avoidance scheme identified by HMRC's published Spotlights list⁷;
 - g. Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

¹ <https://www.iasplus.com/en/standards/ifrs/ifrs10>

² 'Fraudulent evasion' means any 'UK tax evasion offence' or 'UK tax evasion facilitation offence' as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act.

³ "General Anti-Abuse Rule" means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions

⁴ "Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others

⁵ A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

⁶ The full definition of 'Anti-avoidance rule' can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly.

⁷ Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currently-in-the-spotlight>

Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a published list (Spotlights))

3. X's activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:
 1. In respect of (a), either X:
 1. Has accepted the terms of an offer made under a Contractual Disclosure Facility (CDF) pursuant to the Code of Practice 9 (COP9) procedure⁸; or,
 2. Has been charged with an offence of fraudulent evasion.
 2. In respect of (b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.
 3. In respect of (b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.
 4. In respect of (f) this condition is satisfied without any further steps being taken.
 5. In respect of (g) the foreign equivalent to each of the corresponding steps set out above in (i) to (iii).

For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time including any implementing or successor legislation.

⁸ The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed.

Annex 2 Form
CONFIDENTIALITY DECLARATION

CONTRACT REFERENCE: SR1064389865, 12 December 2022 ('the Agreement')

DECLARATION:

I solemnly declare that:

1. I am aware that the duty of confidentiality imposed by section 18 of the Commissioners for Revenue and Customs Act 2005 applies to Authority Data (as defined in the Agreement) that has been or will be provided to me in accordance with the Agreement.
2. I understand and acknowledge that under Section 19 of the Commissioners for Revenue and Customs Act 2005 it may be a criminal offence to disclose any Authority Data provided to me.

SIGNED:
FULL NAME:
POSITION:
COMPANY:
DATE OF SIGNATURE: