



G-Cloud 13 Call-Off Contract

This Call-Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) includes:

G-Cloud 13 Call-Off Contract

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Part A: Order Form

Buyers must use this template order form as the basis for all Call-Off Contracts and must refrain from accepting a Supplier's prepopulated version unless it has been carefully checked against template drafting.

Platform service ID number	988047840406723 Kyndryl Migrate and Modernise to Microsoft Azure Public Cloud
Call-Off Contract reference	ecm_12438
Call-Off Contract title	Hybrid Hosting Transformation (HHT) Affinity Group 2 Migration Partner for Debt Management Suite (DMS)
Call-Off Contract description	Hybrid Hosting Transformation (HHT) Affinity Group 2 Migration Partner for the migration of the Debt Management Suite (DMS) from On Premise Hosting (OPH) to a Cloud Environment
Start date	8th November 2024
Expiry date	7th November 2025
Call-Off Contract value	<p>Potential total Call-Off Contract value is up to a maximum of £426,000 (excluding recoverable VAT).</p> <p>The Initial Statement of Work (SOW 1) is up to a maximum of -REDACTED FOI 43 (excluding recoverable VAT), which is for a service period set out in the project plan in Attachment A to Schedule 1 (Services).</p> <p>Any further Statement of Work ("SOW") introduced under the Call-Off Contract will be subject to individual Buyer governance approvals and the mutual agreement of the Parties.</p>

Charging method	<p>Unless otherwise agreed between the Parties, charging shall be by way of fixed price milestone based payments and/or on a time and materials basis, as set out in the relevant SOW.</p> <p>(Individual SOWs will determine each charging method as appropriate)</p>
Purchase order number	<p>Separate PO numbers will be provided to the Supplier when SOP records are set up for each Statement of Works and, in any event, within 7 working days of the date of signature of this Call-Off Contract (or, in the case of any further SOW called off against this Call-Off Contract by way of a Change Authorisation Notice (CAN)).</p>

This Order Form is issued under the G-Cloud 13 Framework Agreement (RM1557.13).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Services offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with square brackets.

From the Buyer	<p>Referenced in this Call-Off Contract as either the “Buyer”, “DWP” or “Department” (all variations meaning the same)</p> <p>Department for Work & Pensions DWP Commercial Directorate 5th Floor 2 St Peter’s Square Manchester M2 3AA</p>
To the Supplier	<p>Referenced in this Call-Off Contract as either the “Supplier” or “Kyndryl” (all variations meaning the same)</p> <p>Kyndryl UK Limited 2nd Floor 100 Liverpool Street London United Kingdom EC2M 2AT Company number: 13141201</p>

Together the 'Parties'

Principal contact details

For the Buyer:

Title:

REDACTED FOI - 40

For the Supplier:

Title:

REDACTED FOI - 40

Call-Off Contract term

Start date	This Call-Off Contract Starts on 8th November 2024 and is valid until 7th November 2025 .
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least 90 Working Days from the date of written notice for undisputed sums (as per clause 18.6 of Part B: Terms and conditions).</p> <p>The notice period for the Buyer is a maximum of 30 days from the date of written notice for Ending without cause (as per clause 18.1 of Part B: Terms and conditions).</p> <p>Regarding Charges per each Statement of Works (SOW) the Parties, acting reasonably, will agree any charges due for Contracted Out Services on a proportional basis and if the date of termination is prior to the next milestone payment date the Supplier will be paid for any fixed price Services performed up to the date of termination on a time and materials basis, based on the time spent at the Supplier's published rate card (in accordance with the Supplier's Digital Marketplace pricing document) relating to the Platform service ID number for this Order Form, up to the amount(s) of the applicable fixed price(s).</p>

Extension period	This Call-Off Contract can be extended by the mutual agreement of the Parties for one period of up to 12 months. The extension period is subject to clauses 1.3 and 1.4 of Part B: Terms and conditions, save that the Call-Off Contract may only be extended by the mutual agreement of the Parties.
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Buyer contractual details

This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services used by the Buyer may vary during this Call-Off Contract.

G-Cloud Lot	<p>This Call-Off Contract is for the provision of Services Under:</p> <ul style="list-style-type: none"> • Lot 3: Cloud Support
G-Cloud Services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Framework Schedule 4 and outlined below:</p> <ul style="list-style-type: none"> • Service ID: 988047840406723 Kyndryl Migrate and Modernise to Microsoft Azure Public Cloud <p>The specific Services to be provided to the Buyer under this contract are as expressed within this Call-Off Contract and any subsequent Statement of Works (SoW) agreed between the Parties under this Call-Off Contract.</p>
Additional Services	<p>During the life of the Call-Off Contract, additional Services may be requested by the Buyer. These will be individually governed and attached to a separate Change Authorisation Note (CAN) by following the Variation procedure (clause 32 of Part B: Terms and conditions of this Call-Off Contract.) and subject to the Total Contract Value specified in this Order Form.</p> <p>Each statement of work for additional Services, once agreed by the Parties pursuant to the Variation procedure, will be deemed incorporated into Schedule 1 - Services and form part of this Call-Off Contract (reference ecm_12438).</p>

Location	<p>The Buyer does not prescribe the location the services will be delivered however there is likely to be a requirement that the supplier will attend key Buyer sites.</p> <p>Primarily, these may be REDACTED FOI 24.</p> <p>Unless otherwise specified in the relevant SOW, the base location for the Supplier staff will be remote and any attendance at the Buyer's sites is likely to incur costs. Subject to the Buyer's prior approval (not to be unreasonably withheld or delayed), any travel and subsistence expenses in connection with such attendance will be reimbursed in accordance with the DWP Expenses Policy in Attachment B to Schedule 2.</p>
Quality Standards	The quality standards required for this Call-Off Contract are ISO 9001 and ISO 27001. Any specific quality standards required will be detailed in the individual Statement of Works.
Technical Standards	<p>Kyndryl will perform the services in line with Good Industry Practice.</p> <p>Any specific technical standards required will be detailed in the individual Statement of Works.</p>
Service level agreement	The service level and availability criteria specific to a particular piece of work, where relevant, shall be identified and set out in the relevant SOWs included in Schedule 1 - Services of this Order Form, or varied by way of the Variation Procedure thereafter.
Onboarding	Not applicable

Offboarding	In addition to any offboarding requirements set out in each Statement of Work, the Supplier shall as part of offboarding (i) handover all relevant artefacts produced in the course of the Services to the Buyer and (ii) unless agreed otherwise in writing by the Buyer, promptly return Buyer equipment and any access passes provided to the Supplier by the Buyer.
Collaboration agreement	Not Applicable

Limit on Parties' liability	<p>Notwithstanding clause 24.2 (specifically in relation to Clause 10) of this Call-Off Contract or clause 28.2 of the Framework Agreement:</p> <p>Each Party's liability for the direct cost of repairing damage to, or replacing, the real or tangible property (including technical infrastructure, assets or equipment but excluding any loss or damage to Buyer Data) of the other Party to the extent a Party is legally liable for such damage or replacement will not exceed £1,000,000.</p> <p>The Yearly total liability of the Supplier for Buyer Data Defaults resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data and pursuant to the indemnities in clause 10 (Confidentiality) of this Call-Off Contract and clause 28 (Data Protection and disclosure) of the Framework Agreement will not exceed in the aggregate 125% of the Charges paid or payable by the Buyer to the Supplier in the Call-Off Contract Term.</p> <p>The Yearly total liability of the Supplier for all other Defaults will not exceed in the aggregate 125% of the Charges paid or payable by the Buyer to the Supplier in the Call-Off Contract Term.</p>
Insurance	<p>The Supplier insurance(s) required will be:</p> <ul style="list-style-type: none"> • a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract as long as such coverage remains commercially available in the marketplace • professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires as expressed within the relevant Statement of Work (and as required by Law) • employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law

Buyer's responsibilities	<p>The Buyer is responsible for the provision of access to the Buyer's premises where services are to be delivered together with adequate desk space and office facilities including access to the Buyer's IT systems, staff and subcontractors, together with specific responsibilities as detailed in Schedule 1 – Services and the relevant SOW.</p>
Buyer's equipment	<p>The Buyer's equipment to be used with this Call-Off Contract includes IT equipment to allow access to the Buyer's systems. This would be where the Buyer's security and technical requirements necessitate the use of Buyer's equipment.</p> <p>The Supplier will be required to provide an itinerary of all Buyer provided IT equipment when requested.</p> <p><u>Return of the Buyers equipment:</u></p> <p>At the Ending or expiry of this Call-Off Contract (however arising), the Supplier must immediately deliver to the Buyer all equipment issued or made available to the Supplier in connection with this Call-Off Contract (the 'Buyer Equipment') in the Supplier's possession or under its control or in the possession or under the control of any Supplier Staff or any Subcontractor.</p> <p>If the Supplier does not deliver the Buyer Equipment to the Buyer as set out above, the Buyer may in its sole discretion:</p> <ul style="list-style-type: none"> (a) recover possession of such Buyer Equipment and the Supplier grants a licence to the Buyer and its agents to enter upon the premises of the Supplier to recover any such Buyer Equipment. Such recovery of equipment will be subject to Suppliers reasonable security requirements. (b) deduct a sum equivalent to the reasonable cost of replacing such Buyer Equipment from any amount due to the Supplier under this Call-Off Contract or under any other agreement between the Supplier and the Buyer; and/or (c) take any other action available under the terms of this Call-Off Contract or otherwise including commencing formal action. <p>The Supplier must ensure all Buyer Equipment is returned to the Buyer in good working order (allowance will be made only for reasonable wear and tear).</p>

Supplier's information

Subcontractors or partners	<p>The Supplier is not using any key 3rd party subcontractor or partners in the delivery of services at the commencement of this Call-Off Contract.</p> <p>However, where the Supplier uses 3rd party subcontractor or partners in the delivery of services in the future, then these will be added to this Call-Off Contract by means of a Variation.</p>
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Call-Off Contract charges and payment

The Call-Off Contract charges and payment details are in the table below. See Schedule 2 for a full breakdown.

Payment method	The payment method for this Call-Off Contract is by electronic transfer to Supplier's nominated account by BACS.
Payment profile	The payment profile for this Call-Off Contract will be as contained within each SOW Schedule 2 Call-Off Contract charges
Invoice details	The Supplier will issue electronic invoices in accordance with the methodology set out within the SOW Schedule 2 Call-Off Contract charges. The Buyer will pay the Supplier within 30 days of receipt of a valid undisputed invoice.
Who and where to send invoices to	<p>Electronic invoices (attached to E-Mails) should be sent to: REDACTED FOI 24.</p> <p>Paper invoices should be sent to; SSCL, PO Box 406, Phoenix House, Celtic Springs, Newport NP10 8FZ</p> <p>A copy should also be emailed to: REDACTED FOI - 40</p>

Invoice information required	All invoices must include a valid purchase order number along with written confirmation of completion of the works by way of a signed Milestone Acceptance Certificate from the Buyer's named Principal Contact, or, in the case of time and materials charges, such other substantiation as may be required under the relevant SOW.
Invoice frequency	<p>Electronic PDF Invoice(s) will be sent to forementioned upon Milestone Delivery, or if Time and Materials on a monthly basis or at such other frequency agreed in the relevant Statement of Work.</p> <p>In the case of invoices for milestones achieved in accordance with the criteria within the relevant Statement of Work, the Deliverable acceptance process as expressed within Schedule 1 Services, section 3.2 (ix) will apply.</p>
Call-Off Contract value	The total value of this Call-Off Contract is as set out in the Call-Off Contract value section above in Part A of the Order Form.
Call-Off Contract charges	<p>The detailed charges breakdown for the provision of Services during the Term is set out in Schedule 2 - Call-Off Contract charges, including the charges for SOW1.</p> <p>Any Buyer approved charges for further services will be detailed for each individual Statement of Work (SOW) and will be introduced to this contract through a Variation.</p> <p>Deliverables and associated assurance criteria will only be applicable for SOW's that relate to Contracted Out services.</p> <p><u>Expenses:</u></p> <p>Where the Supplier staff and the Supplier Representatives are required to travel to and from the Buyer's sites, expenses will be agreed in line with the DWP Expenses Policy in Attachment B (DWP Expenses Policy) to Schedule 2 (Call-Off Contract charges).</p> <p>Any trips shall be approved in advance by the contract manager, failure to do so will result in the Buyer rejecting claim for payment.</p> <p>Statement of Works Supplier Representatives and Supplier staff would be expected to book travel independently of the Buyer at the most cost-effective travel rate and as a contractor of the Buyer adhere to government rules in line with the expenses policy in Attachment B (DWP Expenses Policy) to Schedule 2 (Call-Off Contract charges).</p>

Additional Buyer terms

Performance of the Service	The Services to be performed by the Supplier shall be as set out in Schedule 1 (Services) and the relevant SOWs.
Guarantee	Not Applicable.
Warranties, representations	The Supplier provides the warranties and representations set out in Framework Agreement clause 2.3, as incorporated and modified by clause 2 of this Call-Off Contract.
Supplemental requirements in addition to the Call-Off terms	Not Applicable.
Alternative clauses	Not Applicable.
Buyer specific amendments to/refinements of the Call-Off Contract terms	<p>STAFF TRANSFER AND NON-SOLICITATION</p> <p>Neither Party's personnel who are involved in the performance of the Services under this Call-Off Contract shall, without the other Party's approval, solicit the other Party's staff or contractors who are employed or engaged in the performance of the Services to be provided under this Call-Off Contract during the Call-Off Contract Term and for a period of 9 months thereafter. For these purposes 'solicit' means the soliciting of such person with a view to engaging such person as an employee, director, sub-contractor or independent contractor. This provision shall not apply to the solicitation of employees by either Party through general advertisement.</p> <p>OTHER VARIATIONS:</p> <p>Part B: Terms and conditions</p> <ul style="list-style-type: none"> • Clause 1.3: This Call-Off Contract can only be extended by the mutual agreement of the Parties. • Clause 5.1: Further to clause 5.1, following the signature of the Call-Off Contract, if additional material information not previously provided by the Buyer (which is evidenced as such by the Supplier)

	<p>has a material impact to the Supplier's delivery of the Statement of Work(s), then any required variations will be agreed under Clause 32 (Variation Procedure).</p> <ul style="list-style-type: none"> • Clause 6.2: The Services do not include disaster recovery and business continuity services except as provided in Schedule 1 and the relevant SOW. However, the Supplier will take commercially reasonable steps to ensure continuity of its Services in accordance with its business continuity procedures. • Clause 9.3: The Buyer confirms that no additional insurance policies are required except as provided in the Order Form or relevant Statement of Work. • Clauses 14.3 to 14.5: The Buyer confirms that, unless otherwise specified in the relevant SOW, PSN will not be applicable to the Services. • Clause 15: The Buyer confirms that, unless otherwise specified in the relevant SOW, any software created for the Buyer does not need to be suitable for publication as open source. • Clause 21: The Buyer confirms that an exit plan is not required under these Services unless otherwise specified in the relevant SOW. • Clause 24 and Framework Agreement clause 28.2 are subject to the limits on liability agreed in the Order Form. <p>For the scope of the SOWs under this Call-Off Contract:</p> <p>1. Security Requirements</p> <ul style="list-style-type: none"> • The Supplier will provide the Buyer with a copy of its Cyber Essentials Plus and ISO27001 certificates prior to the Start Date. • Within 3 months of this Call-Off Contract start date the Supplier will provide the Buyer with any relevant Physical Security Policies/Standards/Procedures that evidence that the supplier has adequate physical security controls in place, that specifically cover the following elements, to the extent applicable to the Services: <ul style="list-style-type: none"> a) Carry out physical security audits/reviews periodically b) Clear-screen policy for papers, removable media and information processing facilities c) Physical security controls in place to protect secure areas including visitor access d) Controls in place to protect equipment and facilities against natural disasters and other incidents or interruptions, malicious or otherwise e) Monitor physical access and review access logs to the facilities to detect and respond to physical security incidents f) Controls in place to protect cables carrying data against interception, interference or damage
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	<ul style="list-style-type: none"> • The Supplier shall support the Buyer to comply with the Security Policies and Standards set out Annex A and B, where working on its systems and to the extent they are relevant to the Services being provided under this Call-Off Contract. <p>Notwithstanding the foregoing, the Buyer's Security Requirements applicable to the Services may be subject to change following certain events including, but not limited to, any relevant change in the delivery of the Services. Where any such change constitutes a Contract Change, any change in the Buyer's Security Requirements resulting from such Contract Change (if any) shall be agreed by the Parties in accordance with the Contract Change Procedure. Where any such change constitutes an Operational Change, any change in the Buyer's Security Requirements resulting from such Operational Change (if any) shall be agreed by the Parties and documented in the relevant Operational Change Confirmation.</p> <p>The Supplier shall maintain appropriate records and is otherwise able to demonstrate compliance with the Security Policies and Standards, to the extent applicable to the Services.</p> <ul style="list-style-type: none"> • The Supplier will comply with any additional security requirements agreed in the relevant SOW. <p>2. Security Clearance</p> <ul style="list-style-type: none"> • The Supplier and any Subcontractors will Comply with RE-DACTED FOI 24 in respect of all persons who are employed or engaged by the Supplier in provision of Services under this Call-Off Contract, unless alternative agreement for personnel security is already in place between the Department for Work and Pensions (Buyer) and the Supplier. REDACTED FOI 24. • The Supplier confirms that all Supplier Staff shall hold BPSS clearance at the Start Date and for the Term of the Call Off Contract. • For Supplier Staff requiring privileged access (as identified in the relevant SOW or as otherwise agreed between the Parties), SC clearance will be provided through an agreed process with the Buyer. • The Supplier will prior to the start date provide the Buyer with the any relevant Staff Vetting Policies/Standards/Procedures that evidence that the supplier has adequate staff vetting in place, that specifically cover the verification of the following four main elements: <ol style="list-style-type: none"> 1. Identity 2. Nationality and Immigration Status (including an entitlement to undertake the work in question) 3. Employment history (past 3 years)
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4. Criminal record (unspent convictions only)

3. **SMEs**

There is particular central government focus on the level of revenue committed (directly or indirectly) to subcontractors within major contract awards, with a minimum target of 33% of total contract revenue to be sub-contracted through the supply chain, with SMEs being used wherever practical. The Supplier is expected to identify the amount of revenue subcontracted and to report on the proportion of total contract revenue subcontracted and identify where these subcontracts are with SMEs. The Supplier will identify any SMEs and subcontractors used for any SOW incorporated into this contract.

4. **Offshoring**

Services

- The Supplier has confirmed that the Schedule 1: Attachment A Initial Statement of Work One (SOW 1) Services do not fall within the definition of Offshoring as stated in the Buyer's Offshoring Policy.
- The Supplier shall at all times comply with the Buyer's Offshoring Policy. In the event that Offshoring is envisaged at any point during the Term of this Call-Off Contract, the Supplier shall immediately notify the Buyer and the Parties shall discuss and the Buyer shall agree the appropriate requirements for the Supplier to satisfy its obligations under this clause and the Buyer's Offshoring Policy (which will require an Enterprise Security Risk Management assessment being undertaken by the Buyer) prior to any Offshoring taking place



DWP OffShoring Policy.pdf

Protection of Information

- The Supplier will not access, process, host or transfer Buyer Data outside the United Kingdom.

Extent of offshoring restrictions

For the avoidance of doubt offshoring will not apply and will not be used for the services of each Statement of Work under this Call-Off Contract as they will be conducted on the Buyer's systems.

Additional Provisions

	<p>Application of TUPE on commencement and termination – for the purposes of this Call-Off Contract both parties have agreed this Call Off Contract on the basis that TUPE should not apply. For the avoidance of doubt, in the event that TUPE was deemed to apply on termination, the terms in Part B: Terms and conditions, clause 29 shall apply.</p>
Personal Data and Data Subjects	<p>Processing, Personal Data and Data Subjects: Under delivery of Hybrid Hosting Transformation (HHT) Affinity Group 2 Migration Partner Services for the migration of the Debt Management Suite (DMS) from On Premise Hosting (OPH) to a Cloud Environment, the Supplier shall not be processing any Personal Data as a data processor.</p> <p>In the event that the Buyer requires the Supplier to process data as a data processor under the GDPR data processing provisions, this will be incorporated into the Call-Off Contract through following the Variation Procedure as detailed in Clause 32 of Part B: Terms and conditions. The Buyer will not otherwise provide the Supplier with any Personal Data.</p> <p>The Parties acknowledge that they are independent controllers for the purposes of the Data Protection Legislation in respect of business contact details that may be provided by either Party in connection with the management and administration of the Call-Off Contract.</p>
Intellectual Property	<p>The Buyer will own any developed Project Specific IPRs, including all assets (articles, best practice guides etc.) produced during the delivery of the services subject to payment of the Charges but without any other cost implications to the Buyer.</p> <p>The Supplier retains a worldwide, irrevocable, fully paid-up, non-exclusive, licence to use, execute, reproduce, display, perform, distribute copies of, and modify (including creating derivative works based on) any items or other materials in respect of which the Buyer owns the developed Project Specific IPRs, and the right to authorise others to do the same. For the avoidance of doubt any developed project specific IPR that is deemed and agreed by both parties as Confidential due to any disclosure presenting a security risk to the Buyer, is excluded from the above.</p>

Social Value	<p>To support the delivery of Social Value through Governmental contracts, the Supplier will work with the Buyer and provide a monthly update at any arranged governance review meeting.</p> <p>This will include the steps the Supplier is taking (as an organisation) and, to the extent applicable to the Services, as part of the delivery of this contract, to support the following themes:</p> <p>Theme 2 to “Tackle economic inequality” with the required policy outcome being to “Create New Business, New Jobs and New Skills”, more specifically:</p> <ul style="list-style-type: none"> • The creation of employment opportunities for those who face barriers to employment and/or who are located in deprived areas; • The creation of employment and training opportunities for people in industries with known skills shortages; <p>Theme 4 to “Tackle workforce inequality” more specifically:</p> <ul style="list-style-type: none"> ○ Reducing the disability employment gap; ○ Tackling Workforce inequality.
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1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part B: Terms and Conditions) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

2. Background to the agreement

- 2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.13.

Signed	Supplier	Buyer
Name	REDACTED FOI - 40	REDACTED FOI - 40
Title	REDACTED FOI - 40	REDACTED FOI - 40
Signature		
Date	8/11/2024	8/11/2024

2.2 The Buyer provided an Order Form for Services to the Supplier.

Customer Benefits

For each Call-Off Contract please complete a customer benefits record, by following this link:

[G-Cloud 13 Customer Benefit Record](#)

Part B: Terms and conditions

1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 36 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 1 period of up to 12 months.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to set the Term at more than 24 months.

2. Incorporation of terms

- 2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:
 - 2.3 (Warranties and representations)
 - 4.1 to 4.6 (Liability)
 - 4.10 to 4.11 (IR35)
 - 10 (Force majeure)
 - 5.3 (Continuing rights)
 - 5.4 to 5.6 (Change of control)
 - 5.7 (Fraud)
 - 5.8 (Notice of fraud)
 - 7 (Transparency and Audit)
 - 8.3 (Order of precedence)
 - 11 (Relationship)
 - 14 (Entire agreement)
 - 15 (Law and jurisdiction)
 - 16 (Legislative change)
 - 17 (Bribery and corruption)
 - 18 (Freedom of Information Act)
 - 19 (Promoting tax compliance)
 - 20 (Official Secrets Act)
 - 21 (Transfer and subcontracting)
 - 23 (Complaints handling and resolution)
 - 24 (Conflicts of interest and ethical walls)
 - 25 (Publicity and branding)
 - 26 (Equality and diversity)
 - 28 (Data protection)
 - 31 (Severability)
 - 32 and 33 (Managing disputes and Mediation)

- 34 (Confidentiality)
- 35 (Waiver and cumulative remedies)
- 36 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement Schedule 3

The Framework Agreement provisions in clause 2.1 will be modified as follows:

- 2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'
- 2.2.2 a reference to 'CCS' or to 'CCS and/or the Buyer' will be a reference to 'the Buyer'
- 2.2.3 a reference to the 'Parties' and a 'Party' will be a reference to the Buyer and Supplier as Parties under this Call-Off Contract

- 2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 7 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.

- 2.4 The Framework Agreement incorporated clauses will be referred to as incorporated Framework clause 'XX', where 'XX' is the Framework Agreement clause number.

- 2.5 When an Order Form is signed, the terms and conditions agreed in it will be incorporated into this Call-Off Contract.

3. Supply of services

- 3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.
- 3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

4. Supplier staff

- 4.1 The Supplier Staff must:
 - 4.1.1 be appropriately experienced, qualified and trained to supply the Services
 - 4.1.2 apply all due skill, care and diligence in faithfully performing those duties
 - 4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer
 - 4.1.4 respond to any enquiries about the Services as soon as reasonably possible

- 4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer
- 4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.
- 4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.
- 4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.
- 4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.
- 4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.
- 4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.
- 4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

- 5.1 Both Parties agree that when entering into a Call-Off Contract they:
- 5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
- 5.1.2 are confident that they can fulfil their obligations according to the Call-Off Contract terms
- 5.1.3 have raised all due diligence questions before signing the Call-Off Contract
- 5.1.4 have entered into the Call-Off Contract relying on their own due diligence

6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their Service Descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.

- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoices under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

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

- 8.1 If a Supplier owes money to the Buyer, the Buyer may deduct that sum from the Call-Off Contract Charges.

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.

- 9.2 The Supplier will ensure that:

9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000

9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit

9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.

- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:

9.4.1 a broker's verification of insurance

9.4.2 receipts for the insurance premium

9.4.3 evidence of payment of the latest premiums due

- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:

9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers

9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances

9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance

9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.

9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.

9.8 The Supplier will be liable for the payment of any:

9.8.1 premiums, which it will pay promptly

9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

10.1 The Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under incorporated Framework Agreement clause

34. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

11. Intellectual Property Rights

11.1 Save for the licences expressly granted pursuant to Clauses 11.3 and 11.4, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights ("IPR"s) (whether pre-existing or created during the Call-Off Contract Term) of the other Party or its licensors unless stated otherwise in the Order Form.

11.2 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

11.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Buyer's or its relevant licensor's Buyer Data and related IPR solely to the extent necessary for providing the Services in accordance with this Contract, including the right to grant sub-licences to Subcontractors provided that:

11.3.1 any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Framework Agreement clause 34 (Confidentiality); and

11.3.2 the Supplier shall not and shall procure that any relevant Sub-Contractor shall not, without the Buyer's written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.

11.4 The Supplier grants to the Buyer the licence taken from its Supplier Terms which licence shall, as a minimum, grant the Buyer a non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Supplier's or its relevant licensor's IPR solely to the extent necessary to access and use the Services in accordance with this Call-Off Contract.

11.5 Subject to the limitation in Clause 24.3, the Buyer shall:

11.5.1 defend the Supplier, its Affiliates and licensors from and against any third-party claim:

- (a) alleging that any use of the Services by or on behalf of the Buyer and/or Buyer Users is in breach of applicable Law;
- (b) alleging that the Buyer Data violates, infringes or misappropriates any rights of a third party;
- (c) arising from the Supplier's use of the Buyer Data in accordance with this Call-Off Contract; and

11.5.2 in addition to defending in accordance with Clause 11.5.1, the Buyer will pay the amount of Losses awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 11.5 shall not apply where and to the extent such Losses or third-party claim is caused by the Supplier's breach of this Contract.

11.6 The Supplier will, on written demand, fully indemnify the Buyer for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:

11.6.1 rights granted to the Buyer under this Call-Off Contract

11.6.2 Supplier's performance of the Services

11.6.3 use by the Buyer of the Services

11.7 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:

11.7.1 modify the relevant part of the Services without reducing its functionality or performance

11.7.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer

11.7.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer

11.8 Clause 11.6 will not apply if the IPR Claim is from:

11.8.1 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract

11.8.2 other material provided by the Buyer necessary for the Services

11.9 If the Supplier does not comply with this clause 11, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

12. Protection of information

12.1 The Supplier must:

12.1.1 comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data

12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body

12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes

12.2 The Supplier must fully assist with any complaint or request for Buyer Personal Data including by:

12.2.1 providing the Buyer with full details of the complaint or request

12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions

12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)

12.2.4 providing the Buyer with any information requested by the Data Subject

12.3 The Supplier must get prior written consent from the Buyer to transfer Buyer Personal Data to any other person (including any Subcontractors) for the provision of the G-Cloud Services.

13. Buyer data

13.1 The Supplier must not remove any proprietary notices in the Buyer Data.

13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.

- 13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.
- 13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.
- 13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.
- 13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:
- 13.6.1 the principles in the Security Policy Framework:
<https://www.gov.uk/government/publications/security-policy-framework> and the Government Security – Classification policy:
<https://www.gov.uk/government/publications/government-security-classifications>
 - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management: <https://www.npsa.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets: <https://www.npsa.gov.uk/sensitive-information-assets>
 - 13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance: <https://www.ncsc.gov.uk/collection/risk-management-collection>
 - 13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:
<https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>
 - 13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:
<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>
 - 13.6.6 Buyer requirements in respect of AI ethical standards.
- 13.7 The Buyer will specify any security requirements for this project in the Order Form.
- 13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

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

13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

14. Standards and quality

14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>

14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.

14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.

14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

15.1 All software created for the Buyer must be suitable for publication as open source, unless otherwise agreed by the Buyer.

15.2 If software needs to be converted before publication as open source, the Supplier must also provide the converted format unless otherwise agreed by the Buyer.

16. Security

16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.

- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
- 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
- 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control
- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information. Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

17. Guarantee

- 17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:
- 17.1.1 an executed Guarantee in the form at Schedule 5
- 17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

18. Ending the Call-Off Contract

- 18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.

18.2 The Parties agree that the:

18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

18.2.2 Call-Off Contract Charges paid during the notice period are reasonable compensation and cover all the Supplier's avoidable costs or Losses

18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

- 19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the ordered G-Cloud Services until the dates set out in the notice.
- 19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.
- 19.4 Ending or expiry of this Call-Off Contract will not affect:
- 19.4.1 any rights, remedies or obligations accrued before its Ending or expiration
- 19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry
- 19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses
- 7 (Payment, VAT and Call-Off Contract charges)
 - 8 (Recovery of sums due and right of set-off)
 - 9 (Insurance)
 - 10 (Confidentiality)
 - 11 (Intellectual property rights)
 - 12 (Protection of information)
 - 13 (Buyer data)
 - 19 (Consequences of suspension, ending and expiry)
 - 24 (Liability); and incorporated Framework Agreement clauses: 4.1 to 4.6, (Liability), 24 (Conflicts of interest and ethical walls), 35 (Waiver and cumulative remedies)
- 19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires.
- 19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:
- 19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it
- 19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer
- 19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer
- 19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

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

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.

21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.

21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 36 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 30 month anniversary of the Start date.

21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.

- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to take the Term beyond 36 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
- 21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the period on terms that are commercially reasonable and acceptable to the Buyer
 - 21.6.2 there will be no adverse impact on service continuity
 - 21.6.3 there is no vendor lock-in to the Supplier's Service at exit
 - 21.6.4 it enables the Buyer to meet its obligations under the Technology Code of Practice
- 21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.
- 21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:
- 21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
 - 21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
 - 21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
 - 21.8.4 the testing and assurance strategy for exported Buyer Data
 - 21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations
 - 21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition
22. Handover to replacement supplier
- 22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

22.1.2 other information reasonably requested by the Buyer

- 22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.
- 22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

23. Force majeure

- 23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 30 consecutive days, the other Party may End this Call-Off Contract with immediate effect by written notice.

24. Liability

- 24.1 Subject to incorporated Framework Agreement clauses 4.1 to 4.6, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract shall not exceed the greater of five hundred thousand pounds (£500,000) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Year (or such greater sum (if any) as may be specified in the Order Form).
- 24.2 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Supplier's liability:
- 24.2.1 pursuant to the indemnities in Clauses 7, 10, 11 and 29 shall be unlimited; and
- 24.2.2 in respect of Losses arising from breach of the Data Protection Legislation shall be as set out in Framework Agreement clause 28.
- 24.3 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Buyer's liability pursuant to Clause 11.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).
- 24.4 When calculating the Supplier's liability under Clause 24.1 any items specified in Clause 24.2 will not be taken into consideration.

25. Premises

- 25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.
- 25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.
- 25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.
- 25.4 This clause does not create a tenancy or exclusive right of occupation.
- 25.5 While on the Buyer's premises, the Supplier will:
- 25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises
 - 25.5.2 comply with Buyer requirements for the conduct of personnel
 - 25.5.3 comply with any health and safety measures implemented by the Buyer
 - 25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury
- 25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

26. Equipment

- 26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.
- 26.2 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.
- 26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

27. The Contracts (Rights of Third Parties) Act 1999

- 27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

This does not affect any right or remedy of any person which exists or is available otherwise.

28. Environmental requirements

- 28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.
- 28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

- 29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.
- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
 - 29.2.1 the activities they perform
 - 29.2.2 age
 - 29.2.3 start date
 - 29.2.4 place of work
 - 29.2.5 notice period
 - 29.2.6 redundancy payment entitlement
 - 29.2.7 salary, benefits and pension entitlements
 - 29.2.8 employment status
 - 29.2.9 identity of employer
 - 29.2.10 working arrangements
 - 29.2.11 outstanding liabilities
 - 29.2.12 sickness absence
 - 29.2.13 copies of all relevant employment contracts and related documents
 - 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.

- 29.3 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.4 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.5 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
- 29.5.1 its failure to comply with the provisions of this clause
 - 29.5.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.6 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.7 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

30. Additional G-Cloud services

- 30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.
- 30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

31. Collaboration

- 31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.
- 31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:
- 31.2.1 work proactively and in good faith with each of the Buyer's contractors
 - 31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

32. Variation process

- 32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.
- 32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.
- 32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clause 28 of the Framework Agreement is incorporated into this Call-Off Contract. For reference, the appropriate UK GDPR templates which are required to be completed in accordance with clause 28 are reproduced in this Call-Off Contract document at Schedule 7.

Schedule 1: Services

The Supplier will provide Kyndryl Migrate and Modernise to Microsoft Azure Public Cloud Services as described in the G-Cloud Service Offering, service ID: 988047840406723 and more specifically those detailed in the Initial SOW, and any further SOW's to be added to this Call-Off Contract (in accordance with section 2 below).

1. This Call-Off Contract can be used for the provision of:

- (i) **Contracted Out Services** – These services have outcome-based deliverables detailed in each individual SOW.
- (ii) **Resource Driven Services** – These services are based on Time and Material charges for Supplier resources detailed in each individual SOW.

2. A separate Change Authorisation Note (CAN) will be agreed by the Supplier and the Buyer for adding each individual SOW to this Call-Off Contract. (The Initial Statement of Work One (SOW 1) which is included in Schedule 1: Attachment A is for (i) Contracted Out Services).

Prior to agreeing the CAN, the Buyer will conduct an assessment of the requirements to determine whether the SOW is for Resource Driven Services or Contracted Out Services and will request the Supplier to provide an associated proposal. The SOW will include details of how the services will be operated and will include the wording in 3.1(i) to (ii)) or 3.2 (I to vi) below as appropriate:

3.

3.1 Where the SOW has been assessed as being for Resource Driven Services, the related SOW will be operated as follows:

- (i) The Supplier warrants that it can deliver the related SOW using personnel who are on the Supplier's payroll and/or through subcontracts and/or umbrella company with full PAYE and NI deducted for such personnel at source and therefore outside IR35 so as not to breach the terms of the G-cloud Framework.

AND

Prior to the Supplier substituting any Supplier Staff, the Supplier shall;

- (ii) Confirm to the Buyer that it can continue to deliver the related SOW using personnel who are on the Supplier's payroll and/or through subcontracts and/or umbrella company with full PAYE and NI deducted for such personnel at source and therefore outside IR35 so as not to breach the terms of the G-cloud Framework.

3.2. Where the Statement of Works has been assessed as being a supply of Contracted Out Services, the related SOW will be operated as follows:

- (i) This SOW specifies outcome-based deliverables detailed in a separate and clear table;
- (ii) The Supplier Staff will be under the day-to-day direction and control of the Supplier, not DWP;
- (iii) Any quality and non-delivery issues will be raised by DWP directly with the Supplier rather than the individual Supplier Staff;
- (iv) The Supplier will be held accountable by DWP for non-delivery of the services, not the individual Supplier Staff;

- (v) The Supplier is able to substitute the individual Supplier Staff to undertake the services within the related SOW as long as they have the equivalent experience and qualifications of the substituted individual Supplier Staff member;
 - (vi) The related SOW will not be used to fill roles that already exist in DWP.
 - (vii) The Supplier will provide the product of each deliverable or the deliverable outcome event notification to the Buyer by the deliverable target due date;
 - (viii) The Supplier shall ensure that all deliverables presented to the Buyer for acceptance are produced to suitable professional standards and will be subject to a Supplier internal peer review process prior to submission to the Buyer for acceptance.
 - (ix) As part of the deliverable acceptance process:
 - a) The Supplier will provide the product of each deliverable or the deliverable outcome event notification by way of a Milestone Acceptance Certificate (MAC) to the Buyer by the deliverable target due date;
 - b) Within 5 working days of receiving the deliverable product or deliverable outcome event notification, the Buyer will review and:
 - confirm acceptance by way of signing and returning the MAC, or
 - clearly state any material nonconformance against the description of the specified deliverable with a statement of the Buyer's expected revisions that will address the material nonconformance;
 - c) Where the Buyer deems the deliverable to be nonconformant, the Supplier shall use reasonable efforts to address any such nonconformity and shall then re-submit the deliverable product to Buyer within 5 working days or by a date agreed between the Parties. In this circumstance, the acceptance process shall re-start for that deliverable.
 - (x) The SOW deliverables and milestone table will:
 - a) Specify the charge value for each milestone payment, this may apply to one or a group of deliverables;
 - b) Specify the format of each deliverable where applicable.
4. During the life of the Call-Off Contract, additional Services may be requested by the Buyer. These will be individually governed and attached to a separate CAN by following the Variation procedure (Clause 32) and subject to the Total Contract Value specified in this Order Form. Each executed statement of work will be deemed incorporated into this Schedule 1: Services and form part of this Call Off Contract reference **ecm_12438**. In the event of any conflict between the terms of the agreed SOW and the Call-Off Contract, the terms of the agreed SOW will take precedence.
5. The Services to be performed by the Supplier and associated deliverables and milestones shall be as set out in each individual Statement of Work.
6. KPIs – Additional Service Levels shall be agreed for a specific service commissioned by the Buyer; however, the following Key Performance Indicators will apply and performance against these reviewed on a monthly basis for each SOW under this call-off contract:

Key Performance Criteria	Key Indicator	Key Performance Measure
KPI 1 – Timeliness of Delivery A measure of the timely delivery of Services	Responsiveness	100% of deliverable products to be provided by the deliverable target due date as agreed with the Buyer and as updated from time to time to take account of supplier, Departmental and external dependencies as detailed in the Statement of Work being met

Key Performance Criteria	Key Indicator	Key Performance Measure
KPI 2– Delivery Acceptance A measure of the outcomes and quality from the delivery of Services	Accuracy	100% to satisfy acceptance criteria in accordance with Schedule 1 -A.1. Service Activities and Outcomes
KPI 3– SOW Financial Value Delivery A measure each SOW being delivered within the allocated charges	Accuracy	100% of SOW deliverables are achieved in accordance with the allocated charges as may be varied from time to time through SOW change control, which is fully impacted, and which provides clear rationale and justification for any charge increase requests.

7. The Services for the Initial Statement of Work One (SOW 1) are as set out in this Schedule 1 Attachment A.

Schedule 1: Attachment A - Initial Statement of Work One (SOW1) Services

REDACTED IN FULL FOI 43 & 24

Schedule 2: Call-Off Contract charges

1. The Supplier shall provide the services on the charge basis below:
 - (i) Resource Driven Services – These services are based on Time and Material charges for Supplier resources detailed in each individual SOW.
 - (ii) Contracted Out Services – These services are provided for on a fixed price basis and have outcome based deliverables detailed in each individual SOW.
2. **Resource Driven Services Charges**
 - 2.1 The Time and Material rate card that will be used for related SOWs added to this Call-off contract during the Term will be based on the Suppliers published rate card (in accordance with the Supplier's Digital Marketplace pricing document) relating to the Platform service ID number for this call off order form, these can't be amended during the term of the Call-Off Contract.
 - 2.2 The Supplier shall provide monthly timesheets and a breakdown of the supporting charges for SOW based on Resource Driven Services.
3. **Contracted Out Services Charges**
 - 3.1 For the delivery of Contracted Out Services, there will be related SOW defined service outcomes, milestones and deliverables. The charges for each milestone will be defined in the related SOW.
 - 3.2 The Supplier shall, where requested by the Buyer, provide a breakdown of the fixed price costs for any SOW which represents a Contracted Out Services.
 - 3.3 Each SOW which represents a Contracted Out Services will be subject to Milestone Evaluation / Acceptance / Approvals process as below:
 - 3.3.1 On completion of the deliverables associated with the milestones, the Buyer SOW manager will sign a Milestone Achievement Certificate which will confirm that the milestone has been delivered and payment can be authorised.
 - 3.3.2 Each deliverable associated to a milestone date and payment will be subject to formal certification for both delivery and acceptance. Therefore, any milestone Payments due will be made following the Buyer formal acceptance of all deliverables.
 - 3.3.3 The Supplier shall ensure that all deliverables presented to the Buyer for acceptance are produced to suitable professional standards and will be subject to a Supplier internal peer review process prior to submission to the Buyer for acceptance.
 - 3.3.4 As part of the deliverable acceptance process:
 - 3.3.4.1 The Supplier will provide the product of each deliverable or the deliverable outcome event notification to the Buyer by the deliverable target due date;
 - 3.3.4.2 Within 5 working days of receiving the deliverable product or deliverable outcome event notification, the Buyer will review and i.) confirm acceptance, or ii.) clearly state any material nonconformance against the description of the specified deliverable with a statement of the Buyer's expected revisions that will address the material nonconformance;

- 3.3.4.3 Where the Buyer deems the deliverable to be nonconformant, the Supplier shall use reasonable efforts to address any such nonconformity and at Buyer's discretion, shall then re-submit a formal remediation plan for agreement between the Parties. This will then be followed by the representation of remediated deliverable product to Buyer within 5 working days or by a date agreed between the Parties (in accordance to the remediation plan). In this circumstance, the acceptance process shall re-start for that deliverable:
 - 3.3.4.3.1 If the number of remediation attempts (in relation to any one specific milestone) exceeds two (2) attempts, the FULL milestone Payment would become only payable once the failure is remedied and will be again subject to the acceptance process;
 - 3.3.4.3.2 If the number of remediation attempts exceeds two (2) attempts for the final payment milestone, Buyer will not make the milestone Payment until the associated deliverables are fully remediated by Supplier in line with the acceptance process.
- 3.3.5 The Initial Statement of Work One (SOW 1) is for a Contracted-Out Service, and therefore is to be provided for on a fixed price basis, with outcome based deliverables. The milestone deliverables and associated charges for the outcomes for SOW 1 are set out in this Schedule 2 Attachment A.

Schedule 2: Attachment A - Initial Statement of Work One (SOW1) Charges

REDACTED IN FULL FOI 43

Schedule 2: Attachment B – DWP Expenses Policy

The Supplier can only claim expenses where agreed with the Buyer. These will be paid in accordance with the Buyer's Travel & Subsistence Rates attached as below:

REDACTED FOI 43

Schedule 3: Collaboration agreement – **Not Applicable**

Schedule 4: Alternative clauses - **Not Applicable**

Schedule 5: Guarantee – **Not Applicable**

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Clause 2 (Services) which a Buyer may request.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Platform).
Audit	An audit carried out under the incorporated Framework Agreement clauses.
Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes created by the Party independently of this Call-Off Contract, or <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>

Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.

Buyer Software	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
Call-Off Contract	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.

Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
Collaboration Agreement	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
Commercially Sensitive Information	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
Confidential Information	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"> • information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above • other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.

Controller	Takes the meaning given in the UK GDPR.
Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.

Data Loss Event	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Call-Off Contract and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
Data Protection Impact Assessment (DPIA)	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
Data Protection Legislation (DPL)	(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.
Data Subject	Takes the meaning given in the UK GDPR

Default	<p>Default is any:</p> <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
DPA 2018	Data Protection Act 2018.
Employment Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') .
End	Means to terminate; and Ended and Ending are construed accordingly.
Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
Equipment	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.

ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
Employment Status Indicator test tool or ESI tool	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: https://www.gov.uk/guidance/check-employment-status-fortax
Expiry Date	The expiry date of this Call-Off Contract in the Order Form.

Force Majeure	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> • acts, events or omissions beyond the reasonable control of the affected Party • riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare • acts of government, local government or Regulatory Bodies • fire, flood or disaster and any failure or shortage of power or fuel • industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> • any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain • any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure • the event was foreseeable by the Party seeking to rely on Force <p>Majeure at the time this Call-Off Contract was entered into</p> <ul style="list-style-type: none"> • any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans
Former Supplier	<p>A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).</p>
Framework Agreement	<p>The clauses of framework agreement RM1557.13 together with the Framework Schedules.</p>

Fraud	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or
	defrauding or attempting to defraud or conspiring to defraud the Crown.
Freedom of Information Act or FoIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.
G-Cloud Services	The cloud services described in Framework Agreement Clause 2 (Services) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
UK GDPR	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that 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 in a similar undertaking in the same or similar circumstances.

Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.
Guidance	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
Implementation Plan	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.

Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
Insolvency event	<p>Can be:</p> <ul style="list-style-type: none"> • a voluntary arrangement • a winding-up petition • the appointment of a receiver or administrator • an unresolved statutory demand • a Schedule A1 moratorium • a Dun & Bradstreet rating of 10 or less
Intellectual Property Rights or IPR	<p>Intellectual Property Rights are:</p> <ul style="list-style-type: none"> • 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 names, designs, Know-How, trade secrets and other rights in Confidential Information • 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 • all other rights having equivalent or similar effect in any country or jurisdiction
Intermediary	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none"> • the supplier's own limited company • a service or a personal service company • a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>

IPR claim	As set out in clause 11.5.
IR35	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.

Know-How	All ideas, concepts, schemes, information, PSN , techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or Buyer's possession before the Start date.
Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, 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.
Loss	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' Losses ' will be interpreted accordingly.

Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
Malicious Software	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
Management Information	The management information specified in Framework Agreement Schedule 6.
Material Breach	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.

New Fair Deal	The revised Fair Deal position in the HM Treasury guidance: “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 as amended.
Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.
Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and ‘Parties’ will be interpreted accordingly.

Personal Data	Takes the meaning given in the UK GDPR.
Personal Data Breach	Takes the meaning given in the UK GDPR.
Platform	The government marketplace where Services are available for Buyers to buy.
Processing	Takes the meaning given in the UK GDPR.
Processor	Takes the meaning given in the UK GDPR.

Prohibited act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> • induce that person to perform improperly a relevant function or activity • reward that person for improper performance of a relevant function or activity • commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud
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Project Specific IPRs	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
Property	Assets and property including technical infrastructure, IPRs and equipment.
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.

PSN or Public Services Network	The Public Services Network (PSN) is the government's high performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
Relevant person	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
Relevant Transfer	A transfer of employment to which the employment regulations applies.
Replacement Services	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.

Replacement supplier	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.

Services	The services ordered by the Buyer as set out in the Order Form.
Service data	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
Service definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Clause 2 (Services) of the Framework Agreement.
Service description	The description of the Supplier service offering as published on the Platform.

Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agile-delivery/spend-controlscheck-if-you-need-approval-to-spend-money-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.
Subcontract	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
Subcontractor	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.

Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.
Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.

Supplier staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
Supplier Terms	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
Term	The term of this Call-Off Contract as set out in the Order Form.

Variation	This has the meaning given to it in clause 32 (Variation process).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.

Schedule 7: UK GDPR Information

This schedule reproduces the annexes to the UK GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract and clause and schedule references are to those in the Framework Agreement but references to CCS have been amended.

The Supplier is not required to process any Personal Data as a data processor and therefore, unless the Parties agree otherwise pursuant to a Variation, the annexes referenced above do not need to be completed for the purpose of this Call-Off Contract.

ANNEX A – AUTHORITY SECURITY POLICIES AND STANDARDS

The Security Policies are published on: REDACTED FOI 43

ANNEX B – SECURITY STANDARDS

The Security Standards are published on: REDACTED FOI 43