

NFC153 Microsoft Aggregation – Order Form and Contract

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Note: There is no Attachment 1 or 2 to the Order Form and the Joint and Call-Off Schedules are those utilised in this contract (the numbers not seen are not part of this contract).

ORDER FORM

CALL-OFF REFERENCE: CEFAS22-102 MS Agreement 2023

THE BUYER: Centre for Environment, Fisheries and Aquaculture Science

BUYER ADDRESS Pakefield Road, Lowestoft, Suffolk, NR33 0HT

THE SUPPLIER: Phoenix Software

SUPPLIER ADDRESS: Bytes House, Randalls Way, Leatherhead, KT22 7TW

REGISTRATION NUMBER: VAT: 755 3490 15

Company Number: 02548628

DUNS NUMBER: 763/488/178

SID4GOV ID: 02548628

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated 12/10/2022. It's issued under the Framework Contract with the reference number RM6068 for the provision of Technology Products and Associated Services.

CALL-OFF LOT(S):

- Lot 3 Software & Associated Services

CALL-OFF INCORPORATED TERMS

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

1. This Order Form including the Attachments.
2. Joint Schedule 1(Definitions and Interpretation) RM6068
3. The following Schedules in equal order of precedence:
 - Joint Schedules for RM6068
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - Joint Schedule 10 (Rectification Plan)
 - Joint Schedule 11 (Processing Data)

Framework Ref: RM6068
Project Version: Published v1.0
Model Version: v3.2

- Call-Off Schedules for this contract
 - Call-Off Schedule 6 (ICT Services)
 - Call-Off Schedule 7 (Key Supplier Staff)
 - Call-Off Schedule 14 (Service Levels)
- 4. CCS Core Terms (version 3.0.6) (including those amends from the Framework Award Form)
- 5. Joint Schedule 5 (Corporate Social Responsibility) RM6068
- 6. Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.
- 7. Annex B Call-Off Schedule 6 (ICT Services)

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery. For the avoidance of doubt, the Buyer will still be bound by the terms of their Enterprise Agreement with Microsoft, which is a separate signed document and outside of this Call-Off Contract.

CALL-OFF SPECIAL TERMS

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

None

CALL-OFF START DATE: The later date of signature by either Supplier or Buyer on this Order Form

CALL-OFF EXPIRY DATE: Three (3) Years after the initial enrolment date (except where the Optional Extension Period is taken, then the Call-Off Expiry Date shall be Four (4) Years after the initial enrolment date). Call-Off Contract to co-term and expire at the same date as agreement with Microsoft.

CALL-OFF INITIAL PERIOD: Three (3) Years from the initial enrolment date 01/04/2023 to 31/03/2026

CALL-OFF OPTIONAL EXTENSION PERIOD One (1) Year

CALL-OFF DELIVERABLES

See Attachment 3 Statement of Requirements

LOCATION FOR DELIVERY

There is no physical delivery required.

DATES FOR DELIVERY OF THE DELIVERABLES

Framework Ref: RM6068
Project Version: Published v1.0
Model Version: v3.2

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Expiry of existing licensing is outlined in Attachment 4 Price Schedule. Initial licensing and enrolment must be completed in line with 18.1 of Attachment 3 Statement of Requirements.

TESTING OF DELIVERABLES

None

WARRANTY PERIOD

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

MAXIMUM LIABILITY

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

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is set out in Attachment 4 Price Schedule.

CALL-OFF CHARGES

See Attachment 4 Price Schedule and see details in Attachment 3 Statement of Requirements

REIMBURSABLE EXPENSES

None

PAYMENT METHOD

Buyer shall pay by BACs following a valid Invoice

BUYER'S INVOICE ADDRESS:

finance@cefas.co.uk

BUYER'S AUTHORISED REPRESENTATIVE

Emma Roberts, Procurement Manager emma.roberts@cefas.gov.uk

BUYER'S DATA PROTECTION OFFICER

Richard Page, Head of Security richard.page@cefas.co.uk

BUYER'S ENVIRONMENTAL POLICY

Not applicable

BUYER'S SECURITY POLICY

Not applicable

SUPPLIER'S AUTHORISED REPRESENTATIVE

Keith Martin

Keith-Martin@phoenixs.co.uk

Framework Ref: RM6068

Project Version: Published v1.0

Model Version: v3.2

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SUPPLIER'S CONTRACT MANAGER

Liam Serginson

Liam-Serginson@phoenixs.co.uk

01904 928220

SUPPLIER'S DATA PROTECTION OFFICER

Geoff McGann

Geoff-McGann@phoenixs.co.uk

PROGRESS REPORT FREQUENCY

As Per Call-Off Schedule 14 and the Account Management Plan outlined in Attachment 3 Statement of Requirements.

PROGRESS MEETING FREQUENCY

As Per the Account Management Plan outlined in Attachment 3 Statement of Requirement.

KEY STAFF

Sales Director – Keith Martin

Keith-Martin@phoenixs.co.uk

Managing Director – Samantha Mudd

Samantha-Mudd@phoenixs.co.uk

CEFAS

Account Manager – Liam Serginson

Liam-serginson@phoenixs.co.uk

Sales Manager – Paul Scaling

Paul-scaling@phoenixs.co.uk

Microsoft Licensing Specialist – Olivia Buckland

Olivia-Buckland@phoenixs.co.uk

KEY SUBCONTRACTOR(S)

Not applicable

COMMERCIALLY SENSITIVE INFORMATION

As set out in Call-Off Schedule 4 – Commercially Sensitive Information
Order Form Attachment 4 – Price Schedule

SERVICE CREDITS

Not applicable

ADDITIONAL INSURANCES

Framework Ref: RM6068

Project Version: Published v1.0

Model Version: v3.2

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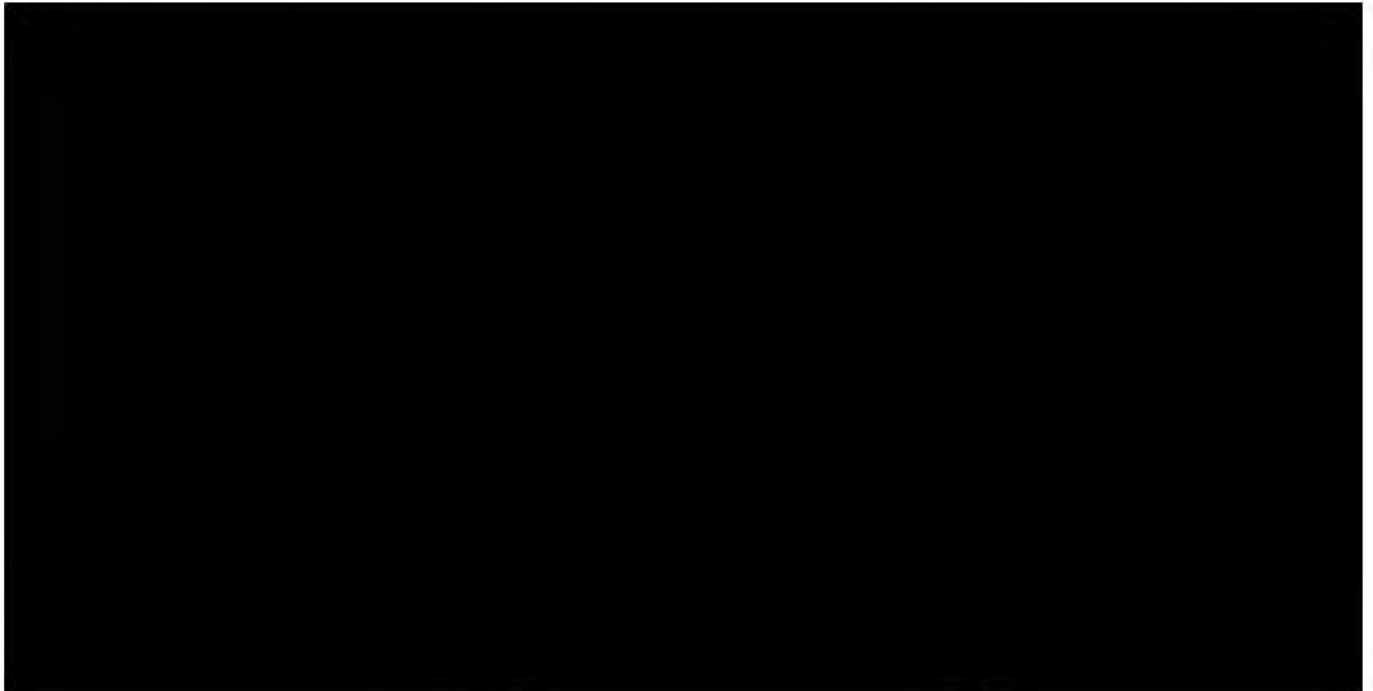
Not applicable

GUARANTEE

Not applicable

SOCIAL VALUE COMMITMENT

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



ORDER FORM ATTACHMENT 3 – STATEMENT OF REQUIREMENTS

1. PURPOSE

- 1.1 This procurement seeks to procure the Goods and/or Services, on behalf of the Buyers, from the successful Supplier.
- 1.2 This procurement is broken down into 2 Lots – All Contracting Authorities in this NFC153 aggregation have the same requirements as stated within this Attachment 3.

2. LIST OF CONTRACTING AUTHORITIES

- 2.1 The following organisations are participants of this further competition:

- 2.1.1 Lot 1 Local Government

- 2.1.1.1 Ipswich Borough Council

- 2.1.1.2 London Borough of Bexley Council
Buyer has indicated they may be interested in E5 ramp discounts. As per Attachment 4 Price Schedule please bid without ramp pricing. Ramp options and pricing to be discussed post award.

- 2.1.1.3 London Borough of Merton
Buyer has indicated they may be interested in E5 ramp discounts. As per Attachment 4 Price Schedule please bid without ramp pricing. Ramp options and pricing to be discussed post award.

- 2.1.1.4 London Borough of Tower Hamlets
Buyer has indicated they are likely to opt for E5 ramp discount. As per Attachment 4 Price Schedule please bid without ramp pricing. Ramp options and pricing to be discussed post award.

- 2.1.1.5 Kirklees Metropolitan Council

- 2.1.1.6 Royal Borough of Windsor and Maidenhead

- 2.1.1.7 Tewkesbury Borough Council
Buyer has indicated they may be interested in E5 ramp discounts. As per Attachment 4 Price Schedule please bid without ramp pricing. Ramp options and pricing to be discussed post award.

- 2.1.1.8 West Berkshire Council
- 2.1.1.9 Wolverhampton City Council
- 2.1.2 Lot 2 Other
 - 2.1.2.1 Centre for Environment, Fisheries and Aquaculture Science (CEFAS)
 - 2.1.2.2 Competition and Markets Authority
 - 2.1.2.3 Countess Of Chester Hospital NHS Foundation Trust
 - 2.1.2.4 East of England Ambulance Service
 - 2.1.2.5 Crown Commercial Service
 - 2.1.2.6 Homes England
 - 2.1.2.7 Surrey and Borders Partnership NHS Foundation Trust
 - 2.1.2.8 Sussex Police & Crime Commissioner, Office of the
 - 2.1.2.9 West Suffolk NHS Foundation Trust
- 2.2 Only these organisations (including any future successors) will be eligible to issue Call Off Orders as a result of this NFC153.
- 2.3 Any organisation that becomes a part of these participating organisations as a result of the Machinery of Government Change shall also be included.
- 2.4 Participation in this procurement is not a commitment to enter a contract and the Buyers will use the results of this NFC153 further competition to decide whether they wish to enter into discussions with the winning bidder ahead of signing the contract. Therefore Bidders are reminded of the importance of submitting their most advantageous offers in response to this procurement.

3. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT

- 3.1 For the purposes of NFC153, Crown Commercial Service (CCS) is acting as an agent on behalf of the Buyers participating in this aggregated procurement. All contracts and service offerings resultant from this procurement will be between the winning Supplier and the Buyers participating in NFC153.

4. DEFINITIONS

Expression or Acronym	Definition
Account Management Plan	Means; the activities outlined at section 18 of this document
Agreement with Microsoft	Means; any volume license agreement with Microsoft procured as part of the Contract
Buyer	Means; any Contracting Authority as defined within the scope of this bid pack
EA	Enterprise Agreement
EES	Enrolment for Education Solutions
ESA	Enterprise Subscription Agreement
Order Form	Means; the Draft Order Form at Attachment 6 – Order Form of this bid pack
Price/Pricing Schedule	Means; Attachment 4 - Price Schedule of this bid pack.
SCE	Server and Cloud Enrolment
Supplier	Means; you, your organisation you represent

5. SCOPE OF REQUIREMENT

- 5.1 Buyers require Microsoft Volume Licensing agreements to cover their current and future Microsoft estate. Some products may sit outside of the Buyer's main agreement, either because it is not eligible or at the Buyer's request due to a more cost-effective option.
- 5.2 All Microsoft Software is in scope of this contract.
- 5.3 Microsoft Hardware and/or extended warranty products are specifically out of scope of this contract.
- 5.4 The current and/or desired estate of Buyers is outlined in the Pricing Schedule and includes products such as:
- 5.4.1 M365 (E3 and E5)
 - 5.4.2 CIS and SCCM Data Centre
 - 5.4.3 CIS and SCCM Standard
 - 5.4.4 SQL Server
 - 5.4.5 Visual Studio
 - 5.4.6 Visio
 - 5.4.7 Project

5.4.8 Teams

5.4.9 Azure

- 5.5 It should be noted that the contract shall include variations to the Buyer's Microsoft estate such that the Buyer may procure different Microsoft products. This may be to either replace those owned previously, or expand their Microsoft estate. Such variations must be made in accordance with the Contract variation procedure and adhere to any applicable laws and regulations.
- 5.6 Prior to enrolment in their Agreement with Microsoft, the Buyer may amend their estate from that stated in the Price Schedule. This may be to account for volume amendments or a different estate strategy.
- 5.7 The Supplier must provide any in scope Microsoft products to the Buyer where requested.

6. THE REQUIREMENT

- 6.1 NFC153 seeks to procure Goods and/or Services on behalf of the Buyers from the Supplier(s).
- 6.2 In each Lot, the successful Supplier will be invited to enter into Call Off Contracts to supply the Goods and/or Services to each Buyer (a separate Call Off Contract with each Buyer).
- 6.2.1 Any new Supplier to that Buyer will be expected to complete financial and/or security information.
- 6.3 This Statement of Requirement and any responses within the eSourcing Suite to each of the Questionnaires will become contractually binding by being included in the final Call Off Contract.
- 6.4 The Supplier shall enrol each Buyer into an Agreement with Microsoft for a period of three years, unless otherwise stated in the Order Form and Price Schedule.
- 6.5 In some instances, the Buyer may decide to not enter into an EA for certain licenses. This is clearly specified in the Price Schedule, along with the type of pricing programme the Buyer would prefer for those licenses.
- 6.6 Buyers that are eligible to access the DTA21 discounts have self-certified their eligibility. This is highlighted in the Pricing tab for each Lot at Attachment 4 - Price Schedule
- 6.7 Buyers in the Education sector may decide to use an EES instead of an EA if they are eligible.
- 6.8 Buyers from the Health sector shall receive, where eligible, N365 discounts.
- 6.9 The Supplier shall ensure additional license requirements are added to the Buyer's existing Agreement with Microsoft, unless the Buyer requests otherwise.

- 6.10 The Supplier shall work with the Buyer to conduct an annual true-up/ true- down review of the Buyer estate. Such a review shall be conducted in line with the Account Management Plan.
- 6.11 Full details of dates and requirements from the Supplier are outlined in Section 18 Account Management Plan.
- 6.12 A full breakdown of Buyer's Microsoft license requirements, volumes and dates are outlined within the Attachment 4 - Price Schedule.

7. KEY MILESTONES AND DELIVERABLES

- 7.1 Failure to meet the dates set out in Section 18 Account Management Plan and/or Invoice Schedule shall be deemed a Critical Service Failure under the Contract.

8. MANAGEMENT INFORMATION/REPORTING

- 8.1 The Supplier shall ensure the Buyer portal enables the Buyer to access reports that show as a minimum:
 - 8.1.1 The current licenses deployed by the Buyer
 - 8.1.2 The current licenses purchased by the Buyer (this report should include undeployed licenses and/or licenses deployed over and above the purchased items)
- 8.2 Where Azure is utilised under this contract, then the Buyer must have access to monthly usage reports as well as annual usage reports.

9. VOLUMES

- 9.1 An estimate of current volumes is outlined in the Attachment 4 Price Schedule.
- 9.2 It should be noted that the contract shall include variations to the Buyer's Microsoft estate such that the Buyer may procure different Microsoft products. This may be to either replace those owned previously, or expand their Microsoft estate. Such variations must be made in accordance with the Contract variation procedure and adhere to any applicable laws and regulations.
- 9.3 Prior to enrolment in their Agreement with Microsoft, the Buyer may amend their estate from that stated in the Pricing Schedule, this may be to account for volume amendments or a different estate strategy.
- 9.4 Buyers are entitled to true-up at any point in their contract.
- 9.5 Buyers are entitled to true-down for EA products annually at the EA anniversary date, where true-downs are permissible through other types of Agreements with Microsoft the Buyer decides to take (e.g. EES) then the Supplier shall notify the Buyer when this is permitted.

10. CONTINUOUS IMPROVEMENT

- 10.1 The Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Contract duration.
- 10.2 The Supplier should present new ways of working to the Buyer during the Contract review meetings.
- 10.3 Changes to the way in which the Services are to be delivered must be brought to the Buyer's attention and agreed prior to any changes being implemented.

11. SOCIAL VALUE

- 11.1 The Supplier shall provide to the Buyer the yearly report provided as part of 3.1.8 of Joint Schedule 5 Corporate Social Responsibility of Attachment 5 - Terms and Conditions, on steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- 11.2 The Supplier shall minimise, where possible, the carbon footprint of all services delivered under this Contract.
- 11.3 Where requested by the Buyer, the Supplier shall provide a statement on how they are delivering on 11.2.
- 11.4 Where requested by the Buyer, the Supplier shall provide a social value plan to the Buyer detailing how their social value activities set out in Call-Off Schedule 4 will be applied to that Buyer's social value priorities. The following process shall apply:
 - 11.4.1 Buyer requests social plan and provides the Supplier with their social value priorities and/or objectives and targets
 - 11.4.2 The Supplier drafts the plan to show how the social value activities set out in Call-Off Schedule 4 (the Supplier's response to question 4.1 at bid stage) supports the Buyer's priorities/objectives as provided as part of 11.4.1.
For the avoidance of doubt, nothing precludes the Supplier from detailing additional social value aspects not set out in Call-Off Schedule 4 providing this does not incur further costs to the Buyer
 - 11.4.3 The Supplier will send the draft plan to the Buyer within 10 working days following receipt of request and the social value priorities/objectives (as per 11.4.1) from the Buyer
 - 11.4.4 The Buyer will review the social value plan and either
 - 11.4.4.1 accept within 10 working days; or
 - 11.4.4.2 work with the Supplier to reach an agreed plan within a timescale agreed by both parties.

12. QUALITY

- 12.1 The Supplier shall have (and maintain throughout the life of the Contract) Microsoft Gold Accreditation, or equivalent, and associated competencies.
- 12.2 The Supplier shall maintain Licensing Solution Partner (LSP) status with Microsoft throughout the life of the Contract.
- 12.3 The Supplier shall be a Microsoft FastTrack specialist with capability to support ongoing migrations and provide remote guidance and advice.

13. PRICE

- 13.1 Supplier margins within the Price Schedule may not be increased throughout the life of the Contract, regardless of the products ordered by the Buyer.
- 13.2 Supplier margins may be reduced at any point by the Supplier.
- 13.3 Prices for all ordered products shall be fixed from the point of order (this may be at enrolment or where new products are added to the Contract and therefore ordered from Microsoft).
- 13.4 For the avoidance of doubt, any true-ups for the same product shall remain at the fixed price, generated by the first ordering of that product type.
- 13.5 New products added to the Contract shall be charged at the list price from Microsoft with the addition of the Supplier Maximum Margin (as stated in the Price Schedule).
- 13.6 Once a new product has been added to the Contract, the pricing shall be fixed for all future years and any true-ups.
- 13.7 Prices are in the Price Schedule and exclude VAT and include all other expenses relating to Contract delivery.

14. STAFF AND BUYER SERVICE

- 14.1 The Supplier shall provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service. Examples of these activities are:
 - 14.1.1 Suppliers to be proactive in managing transaction ordering, with commitments to response times for quotes, order processing, issue resolution etc;
 - 14.1.2 Proactive advice on licence options prior to purchase on all MS products;
 - 14.1.3 Licence exploitation workshops and advice;
 - 14.1.4 Proactive roadmap sessions
 - 14.1.5 Regular account management sessions

- 14.2 The Supplier shall provide a dedicated account manager to each Buyer. This account manager shall be Key Supplier Staff.
- 14.3 The Supplier shall provide a dedicated support team.
- 14.4 The Supplier's staff assigned to the Contract shall have the relevant qualifications and experience, being (MCP) License experts, in order to deliver the Contract to the required standard, including the support and infrastructure optimisation advice required by Section 18 Account Management Plan.
- 14.5 The Supplier shall ensure that staff understand the Buyer's vision and objectives and will provide excellent Buyer service to the Buyer throughout the duration of the Contract.
- 14.6 The Supplier shall provide ad hoc assistance (on demand) to use the Microsoft VLSC portal or the Supplier portal (as appropriate) to carry out user profiling.
- 14.7 The Supplier shall ensure staff with relevant qualifications and experience are accessible within normal UK working hours.

15. SERVICE LEVELS AND PERFORMANCE

- 15.1 The Buyer will measure the quality of the Supplier's delivery by reviewing Supplier performance against Section 18 Account Management Plan and the Invoice Schedule.
- 15.2 Failure to meet any aspect of the Account Management Plan and/or Invoice Schedule shall be deemed a Critical Service Failure under the Contract.

16. SECURITY AND CONFIDENTIALITY REQUIREMENTS

- 16.1 Any specific security requirements pertaining to attendance to Buyer premises or handling of Buyer data are specified in the Order Form.

17. QUOTES, INVOICING AND PAYMENT

- 17.1 Invoices should be submitted to an address determined by the Buyer as per the final completed Order Form.
- 17.2 Invoices may only be submitted once an order has been successfully processed.
- 17.3 Invoices and quotes must show the list price from Microsoft and the margin applied by the Supplier broken down by each product type. The breakdown can be supplied as a separate document, but must be supplied at the same time as the Invoice.
- 17.4 Quotes must show services that will incur an extra charge.
- 17.5 Invoices must show services provided that have incurred an extra charge.
- 17.6 Licenses are to be billed annually in advance, with newly added licenses to be charged pro-rata and billed as they are ordered and added to the Contract.

17.7 Consumption for Azure will be billed according to the type of plan the Buyer has.

17.8 Invoice Schedule:

Enrolment Date	Invoice for Year 1 initial Agreement with Microsoft product set (as refined in enrolment period)
Throughout Year 1	Where the Buyer adds true-up products or product additions, pro-rata invoices are issued once the product is added to Contract. Where applicable, Azure consumption is invoiced.
1st Year Anniversary Date	Invoice for Year 2 Agreement with Microsoft amended product set (including true-up licenses and accounting for any true-downs)
Throughout Year 2	Where the Buyer adds true-up products or product additions, pro-rata invoices are issued once the product is added to Contract. Where applicable, Azure consumption is invoiced.
2nd Year Anniversary Date	Invoice for Year 3 Agreement with Microsoft amended product set (including true-up licenses and accounting for any true-downs)
Throughout Year 3	Where the Buyer adds true-up products or product additions, pro-rata invoices are issued once the product is added to Contract. Where applicable, Azure consumption is invoiced.
Below Year 4 applies ONLY where the Buyer invokes the optional one (1) year extension	
3rd Year Anniversary Date	Invoice for Year 4 product set – likely to be a new enrolment year of Agreement with Microsoft
Throughout Year 4	Where the Buyer adds true-up products or product additions, pro-rata invoices are issued once the product is added to Contract. Where applicable, Azure consumption is invoiced.

17.9 Payment terms shall be 30 days from a valid invoice, unless other payment terms are agreed between the Buyer and Supplier.

17.10 The Supplier shall comply with Buyer requirements for set up and invoicing via any e-payment systems. The Supplier shall not charge for any differing requirements per Buyer around invoicing.

18. ACCOUNT MANAGEMENT PLAN

18.1 Prior to the enrolment with Microsoft, the Supplier shall assist the Buyer, including separate assistance to Buyer entities named in paragraph 2 of this Statement of Requirements, in the enrolment process. Coordinating between the Buyer and Microsoft where necessary to ensure the enrolment process is completed at least two weeks prior to the necessary enrolment date.

18.2 As a minimum, the Supplier shall follow the below Account Management Plan for every Buyer entity named in paragraph 2 of this Statement of Requirements:

Year	By End of Month	Activity
1	2	Software Assurance activation, discussion of added value of Software Assurance and access to Customer Transformation Programme
	6	Buyer Meeting
	8	Meeting for Infrastructure Optimisation (IO) and Deployment
	9	True-up/down Engagement
	12	True-up/down Completed Meeting for Infrastructure Optimisation (IO) and Deployment
2	14	Buyer Meeting
	17	EA Value Briefing (Microsoft driven)
	18	Meeting for Infrastructure Optimisation (IO) and Deployment
	21	True-up/down Engagement
	24	True-up/down Complete Meeting for Infrastructure Optimisation (IO) and Deployment
3	26	Buyer Meeting
	30	Meeting for Infrastructure Optimisation (IO) and Deployment
	33	True-up/down Engagement

	36	True-up/down Complete
Below Year 4 applies ONLY where the Buyer invokes the optional one (1) year extension		
4	38	For re-enrolment of Agreement with Microsoft - Software Assurance activation, discussion of added value of Software Assurance and access to Customer Transformation Programme
	38	Buyer Meeting
	42	Meeting for Infrastructure Optimisation (IO) and Deployment
	45	True-up/down Engagement
	48	True-up/down Complete

- 18.3 Software Assurance activation refers to the Supplier ensuring the Buyer is enrolled in the relevant Software Assurance programme within any minimum time windows. The benefits of free Software Assurance should be explained to the Buyer by the Supplier.
- 18.4 Buyer meetings refer to contract review meetings. Such meetings shall cover Contract procedural elements, such as variation forms, change of key staff and invoicing.
- 18.5 During Infrastructure Optimisation (IO) and Deployment meetings the Supplier shall:
- 18.5.1 present possible amends to the Buyer estate to deliver a more cost effective and proactive solution;
 - 18.5.2 identify unnecessary products currently in the Buyer estate and suggest solutions that combine or utilise different licenses that would benefit the Buyer;
 - 18.5.3 clearly outline the cost/benefit analysis for any proposed solutions or amendments;
 - 18.5.4 discuss any software assurance issues or requirements; and
 - 18.5.5 present data from portal telemetry to ensure true down processes for any users not utilising licenses.
- 18.6 True-up/down Engagement follows on from the Infrastructure Optimisation (IO) and deployment meeting, to discuss whether the Buyer wishes to move to the proposed solutions. It should also cover any ad hoc true-ups or newly added products throughout the year.

- 18.7 True-up/down Completed refers to all final paperwork completed and the order for the new year being issued to Microsoft (note this should be done in ample time prior to the anniversary date for a smooth transition to the new year).
- 18.8 Attendance at Contract Review or Infrastructure Optimisation (IO) meetings shall be at the Supplier's own expense.
- 18.9 By agreement between both Parties, all meetings may take place virtually.

19. LOCATION

- 19.1 The Services are for licensing, a physical delivery is not required.

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CORE TERMS

1. DEFINITIONS USED IN THE CONTRACT

1.1 Interpret this Contract using Joint Schedule 1 (Definitions).

2. How the contract works

2.1 The Supplier is eligible for the award of Call-Off Contracts during the Framework Contract Period.

2.2 CCS doesn't guarantee the Supplier any exclusivity, quantity or value of work under the Framework Contract.

2.3 CCS has paid one penny to the Supplier legally to form the Framework Contract. The Supplier acknowledges this payment.

2.4 If the Buyer decides to buy Deliverables under the Framework Contract it must use Framework Schedule 7 (Call-Off Award Procedure) and must state its requirements using Framework Schedule 6 (Order Form Template and Call-Off Schedules). If allowed by the Regulations, the Buyer can:

- make changes to Framework Schedule 6 (Order Form Template and Call-Off Schedules)
- create new Call-Off Schedules
- exclude optional template Call-Off Schedules
- use Special Terms in the Order Form to add or change terms

2.5 Each Call-Off Contract:

- is a separate Contract from the Framework Contract
- is between a Supplier and a Buyer
- includes Core Terms, Schedules and any other changes or items in the completed Order Form
- survives the termination of the Framework Contract

2.6 Where the Supplier is approached by an eligible buyer requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this Framework Contract before accepting their order. The Supplier will promptly notify CCS if the eligible buyer won't use this Framework Contract.

2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.

2.8 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

- verify the accuracy of the Due Diligence Information
- properly perform its own adequate checks

2.9 CCS and the Buyer won't be liable for errors, omissions or misrepresentation of any information.

2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the Framework Tender Response and, in relation to a Call-Off Contract, the Call-Off Tender (if there is one)
- to a professional standard
- using reasonable skill and care
- using Good Industry Practice
- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract
- on the dates agreed
- that comply with Law
- that meet the Test Success Criteria

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

3.2 Goods clauses

3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin. The relevant Buyer must agree in writing to supply of Goods that are not new.

3.2.2 The supplier warrants that all Goods ;

- are sourced directly from the manufacturer or an authorised reseller and;
- are sold by manufacturer or with its consent within the UK and the European Economic Area ;
- where necessary are accompanied by a valid software license ;
- are eligible for manufacturer's warranty ;
- are eligible for manufacturer's support services and;
- will be reported back to manufacturer as sold to the relevant Buyer.

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

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

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

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

3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.

3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.

3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.

3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

3.2.11 The Supplier shall provide product lifecycle information, including product roadmaps, on request of the Buyer. Where the Supplier becomes aware that Goods are to become End of Life, the Supplier shall use all reasonable endeavours to give the Buyer three (3) Months' notice of this; in any event, the Supplier shall notify the Buyer when Goods are End of Life.

3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

3.2.13 The Buyer shall have the right to require that the Deliverables be subjected to the Tests specified in the Order Form.

The Supplier shall ensure the Deliverables are available for Testing at the start of the scheduled Test Period, and the Tests shall be carried out during the scheduled Test Period.

The Party conducting the Tests will record them as successful and inform the other Party accordingly where the Test Success Criteria are met by the end of the scheduled Test Period.

Core Terms

The Party conducting the Tests will record them as unsuccessful and inform the other Party accordingly where the Test Success Criteria are not met by the end of scheduled Test Period.

Without prejudice to Clauses 5 and 20 of the Core terms, where the Test Success Criteria are not met within the scheduled Test Period the Buyer shall have the right either;

- to direct the Supplier to correct the issues that resulted in failure to satisfy the Test Success Criteria, and to resubmit the relevant Deliverables for Testing
or;
- to notify the Supplier that testing has been satisfactorily completed subject to rectification of outstanding issues within a period specified by the Buyer. Failure to rectify the relevant issues within the period specified shall be a material Default
or;
- to reject the relevant Deliverables and to invoke Clause 3.2.12
or;
- to reject the relevant Deliverables treating this as a material default and invoking the Buyer's termination right under Clause 10.4.1

3.2.14 The Supplier shall have access to a sufficient stock of spare devices that have been specified as business critical on the Order Form or elsewhere in the relevant Call-Off Contract to allow the Buyer to initiate business-critical swaps of faulty devices, or to address Dead On Arrival/Installation (DOA/DOI) business critical issues, with replacement by the same model and specification of device. Upon notification by the Buyer of the requirement for a business-critical swap or DOA/DOI business critical issue, the Supplier shall swap the device with a spare device within twenty-four (24) hours of the Buyer reporting the issue.

For the avoidance of doubt, the Buyer shall not Approve any DOA/DOI devices, and for the purposes of any Implementation Plan such Goods shall be deemed as not having been Delivered.

3.2.15 The Supplier shall ensure:

- it has access to a sufficient stock of spare components to undertake repairs to Goods in accordance with warranty requirements, and in any case to undertake required repairs within a reasonable time period; and
- where Goods are repaired or replaced under warranty, the repaired or replaced Goods shall have either the remainder of the original warranty period or where offered a full warranty period as if supplied as new under the Call-Off Contract

3.2.16 In undertaking any repairs to the Goods, the Supplier shall not replace any parts or components of the Goods with parts or components that are of lower quality or which are

unsuitable for use in their designed purpose either by the Buyer or a Replacement Supplier, prior to the expiry or termination of the Call-Off Contract (howsoever arising).

3.2.17 The Supplier confirms that where a Buyer has an in-house warranty provider or technical staff who undertake warranty repair work, the Supplier shall work with the in-house warranty provider and/or technical staff to provide any required training to enable the transfer of warranty repair work without cost or loss of service to the Buyer. Where this reduces the cost to the Supplier of providing the warranty, the Supplier shall pass such cost savings on to the Buyer.

3.2.18 Where there is fault in any Goods which cannot be repaired, the Supplier shall ensure and procure that any data residing in any such Goods is removed or destroyed in accordance with HMG Infosec Standard 5 baseline, or as otherwise agreed with the Buyer, at no additional cost to the Buyer, prior to such Goods being returned to any manufacturer or other third party for disposal.

3.2.19 The Buyer has the sole option to remove and retain any hard drives or solid state drives prior to the return of Goods to the Supplier at no additional cost to the Buyer.

3.2.20 The Supplier shall make a stock of Test Devices, for the purpose of testing compatibility with a Buyer's IT infrastructure, available to the Buyer as required. Test Devices shall be shipped to the Buyer's nominated Site on request and at the Supplier's expense. The Buyer shall return Test Devices to the Supplier in the same condition as initially provided to them by the Supplier (unless agreed otherwise between the Parties). Risk and ownership for any Test Devices shall remain with the Supplier.

3.2.21 The Supplier shall where reasonably possible collate information on the failure rate of Goods such that it can trace failure rate by batch, principal reasons for failure, and by Buyer affected by Goods failure. This information will help the Supplier to identify situations of Endemic Failures. In the event of Endemic Failure of the Goods supplied, the Supplier shall inform the Buyer and the Buyer will have the right to reject all Goods in the affected batch and require their replacement by the Supplier at no cost to the Buyer and without prejudice to the Buyer's right of remedies. Endemic Failure also triggers a material Default by the Supplier, entitling the Buyer to terminate the Call-Off Contract.

3.3 Services clauses

3.3.1 Late Delivery of the Services will be a Default of a Call-Off Contract.

3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment

required to Deliver the Services.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

4 Pricing and payments

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.

4.2 CCS must invoice the Supplier for the Management Charge and the Supplier must pay it using the process in Framework Schedule 5 (Management Charges and Information).

4.3 All Charges and the Management Charge:

- exclude VAT, which is payable on provision of a valid VAT invoice
- include all costs connected with the Supply of Deliverables

4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.

4.5 A Supplier invoice is only valid if it:

- includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer
- includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any)
- doesn't include any Management Charge (the Supplier must not charge the Buyer in any way for the Management Charge)

4.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, CCS or the Buyer can publish

the details of the late payment or non-payment.

4.8 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then CCS or the Buyer may either:

- require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items
- enter into a direct agreement with the Subcontractor or third party for the relevant item

4.9 If CCS or the Buyer uses Clause 4.8 then the Framework Prices (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.

4.10 CCS and the Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:

- the relevant item being made available to the Supplier if required to provide the Deliverables
- any reduction in the Framework Prices (and where applicable, the Charges) excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges

4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

5. The buyer's obligations to the supplier

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

- neither CCS or the Buyer can terminate a Contract under Clause 10.4.1
- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract
- the Supplier is entitled to additional time needed to make the Delivery
- the Supplier cannot suspend the ongoing supply of Deliverables

5.2 Clause 5.1 only applies if the Supplier:

- gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware
- demonstrates that the Supplier Non-Performance only happened because of the Authority Cause
- mitigated the impact of the Authority Cause

6. Record keeping and reporting

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

6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for 7 years after the End Date.

6.3 The Supplier must allow any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit.

6.4 The Supplier must provide information to the Auditor and reasonable co-operation at their request.

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

- tell the Relevant Authority and give reasons
- propose corrective action
- provide a deadline for completing the corrective action

6.6 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:

- the methodology of the review
- the sampling techniques applied
- details of any issues
- any remedial action taken

6.7 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

7. Supplier staff

7.1 The Supplier Staff involved in the performance of each Contract must:

- be appropriately trained and qualified
- be vetted using Good Industry Practice and the Security Policy
- comply with all conduct requirements when on the Buyer's Premises

7.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.

7.3 If requested, the Supplier must replace any person whose acts or omissions have

caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8. Rights and protection

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform each Contract
- each Contract is executed by its authorised representative
- it is a legally valid and existing organisation incorporated in the place it was formed
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract
- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract
- it is not impacted by an Insolvency Event
- it will comply with each Call-Off Contract

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

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

- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract
- non-payment by the Supplier of any tax or National Insurance

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

8.5 CCS or a Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.

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

8.7 The Supplier shall assign to the Buyer, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Buyer, all warranties and

indemnities provided by third parties in respect of the Deliverables. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Buyer may notify from time to time to the Supplier.

9. Intellectual Property Rights (IPRs)

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

- receive and use the Deliverables
- make use of the deliverables provided by a Replacement Supplier

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

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

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.

9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:

- obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR
- replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables

10. Ending the contract

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

10.3 Ending the contract without a reason

10.3.1 CCS has the right to terminate the Framework Contract at any time without reason or liability by giving the Supplier at least 30 days' notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.3.2 Each Buyer has the right to terminate their Call-Off Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated Clause 10.5.2 to 10.5.7 applies and for the avoidance of doubt the Buyer shall be liable for the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

10.4 When CCS or the buyer can end a contract

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

- there's a Supplier Insolvency Event
- there's a Contract Default that is not corrected in line with an accepted Rectification Plan
- the Relevant Authority rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- there's any material default of the Contract
- there's a Default of Clauses 2.10, 9, 14, 15, 27, 32 or Framework Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract
- there's a consistent repeated failure to meet the Performance Indicators in Framework Schedule 4 (Framework Management)
- there's a Change of Control of the Supplier which isn't pre-approved by the Relevant Authority in writing
- there's a Variation to a Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations
- the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them

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

10.4.3 If there is a Default, the Relevant Authority can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.4.4 When the Relevant Authority receives a requested Rectification Plan it can either:

- reject the Rectification Plan or revised Rectification Plan, giving reasons
- accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties

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

- must give reasonable grounds for its decision
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days

10.4.6 If any of the events in 73 (1) (a) to (c) of the Regulations happen, the Relevant Authority has the right to immediately terminate the Contract and Clause 10.5.2 to 10.5.7 applies.

10.5 What happens if the contract ends

Where the Relevant Authority terminates a Contract under Clause 10.4.1 all of the following apply:

10.5.1 The Supplier is responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.5.2 The Buyer's payment obligations under the terminated Contract stop immediately.

10.5.3 Accumulated rights of the Parties are not affected.

10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.

10.5.5 The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.

10.5.6 The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.5.7 The following Clauses survive the termination of each Contract: 3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

10.6 When the supplier can end the contract

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

10.6.2 If a Supplier terminates a Call-Off Contract under Clause 10.6.1:

- the Buyer must promptly pay all outstanding Charges incurred to the Supplier
- the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated
- Clauses 10.5.4 to 10.5.7 apply

10.7 When subcontracts can be ended

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved by the Relevant Authority in writing
- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4
- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority

10.8 Partially ending and suspending the contract

10.8.1 Where CCS has the right to terminate the Framework Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Call-Off Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Call-Off Contracts that have already been signed.

10.8.2 Where CCS has the right to terminate a Framework Contract it is entitled to terminate all or part of it.

10.8.3 Where the Buyer has the right to terminate a Call-Off Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.8.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.8.5 The Parties must agree any necessary Variation required by Clause 10.8 using the Variation Procedure, but the Supplier may not either:

- reject the Variation
- increase the Charges, except where the right to partial termination is under Clause 10.3

10.8.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.8.

11. How much you can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under this Framework Contract (whether in tort, contract or otherwise) is no more than £100,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Call-Off Contract (whether in tort, contract or otherwise) is no more than the greater of £100,000 or 150% of the Estimated Yearly Charges unless specified in the Call-Off Order Form

11.3 No Party is liable to the other for:

- any indirect Losses
- Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect)

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors
- its liability for bribery or fraud or fraudulent misrepresentation by it or its employees
- any liability that cannot be excluded or limited by Law
- its obligation to pay the required Management Charge or Default Management Charge

11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3, 9.5, 12.2 or 14.8 or Call-Off Schedule 2 (Staff Transfer) of a Contract.

11.6 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.

11.7 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:

- Deductions
- any items specified in Clause 11.5

11.8 If more than one Supplier is party to a Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

12. Obeying the law

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).

12.2 The Supplier indemnifies CCS and every Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with a Contract.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

13. Insurance

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

14. Data protection

14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).

14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.

14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:

- tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier
- restore the Government Data itself or using a third party

14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless CCS or the Buyer is at fault.

14.8 The Supplier:

- must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading
- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice
- securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it
- indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

15. What you must keep confidential

15.1 Each Party must:

- keep all Confidential Information it receives confidential and secure
- not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract
- immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information

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

- where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure
- if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party
- if the information was given to it by a third party without obligation of confidentiality
- if the information was in the public domain at the time of the disclosure
- if the information was independently developed without access to the Disclosing Party's Confidential Information
- to its auditors or for the purposes of regulatory requirements
- on a confidential basis, to its professional advisers on a need-to-know basis
- to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010

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

15.4 CCS or the Buyer may disclose Confidential Information in any of the following cases:

- on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer
- on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to
- if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions
- where requested by Parliament
- under Clauses 4.7 and 16

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

15.6 Transparency Information is not Confidential Information.

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

16. When you can share information

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

16.2 Within the required timescales the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:

- publish the Transparency Information
- comply with any Freedom of Information Act (FOIA) request
- comply with any Environmental Information Regulations (EIR) request

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision, which does not need to be reasonable.

17. Invalid parts of the contract

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or

unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond your control

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

- provides a Force Majeure Notice to the other Party
- uses all reasonable measures practical to reduce the impact of the Force Majeure Event

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

20.3 Where a Party terminates under Clause 20.2:

- each party must cover its own Losses
- Clause 10.5.2 to 10.5.7 applies

21. Relationships created by the contract

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

22. Giving up contract rights

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

23. Transferring responsibilities

23.1 The Supplier can not assign a Contract without the Relevant Authority's written consent.

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

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

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

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

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

- their name
- the scope of their appointment
- the duration of their appointment

24. Changing the contract

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

24.2 The Supplier must provide an Impact Assessment either:

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

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

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

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

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

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

- that the Supplier has kept costs as low as possible, including in Subcontractor costs
- of how it has affected the Supplier's costs

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

25. How to communicate about the contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address in the Framework Award Form.

25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.

25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Dealing with claims

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim
- give the Indemnifier reasonable assistance with the claim if requested

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal

advisors and in a way that doesn't damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money
- the amount the Indemnifier paid the Beneficiary for the Claim

27. Preventing fraud, bribery and corruption

27.1 The Supplier must not during any Contract Period:

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

27.2 The Supplier must during the Contract Period:

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

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

- been investigated or prosecuted for an alleged Prohibited Act
- been debarred, suspended, proposed for suspension or debarment, or is

otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency

- received a request or demand for any undue financial or other advantage of any kind related to a Contract
- suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act

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

27.5 In any notice the Supplier gives under Clause 27.4 it must specify the:

- Prohibited Act
- identity of the Party who it thinks has committed the Prohibited Act
- action it has decided to take

28. Equality, diversity and human rights

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

- protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise
- any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law

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

29. Health and safety

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

- all applicable Law regarding health and safety
- the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier

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

30. Environment

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

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

31. Tax

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

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

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

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

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

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

- the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the

information the Worker must provide and the deadline for responding

- the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer
- the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements
- the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management

32. Conflict of interest

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

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

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

33. Reporting a breach of the contract

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

- Law
- Clause 12.1
- Clauses 27 to 32

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

34. Resolving disputes

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

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

Clauses 34.3 to 34.5.

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

- determine the Dispute
- grant interim remedies
- grant any other provisional or protective relief

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

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

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

35. Which law applies

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